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POLITICAL SCIENCE QUARTERLY.

THE STUDY OF ADMINISTRATION.

I SUPPOSE that no practical science is ever studied where there is no need to know it. The very fact, therefore, that the eminently practical science of administration is finding its way into college courses in this country would prove that this country needs to know more about administration, were such proof of the fact required to make out a case. It need not be said, however, that we do not look into college programmes for proof of this fact. It is a thing almost taken for granted among us, that the present movement called civil service reform must, after the accomplishment of its first purpose, expand into efforts to improve, not the *personnel* only, but also the organization and methods of our government offices: because it is plain that their organization and methods need improvement only less than their *personnel.* It is the object of administrative study to discover, first, what government can properly and successfully do, and, secondly, how it can do these proper things with the utmost possible efficiency and at the least possible cost either of money or of energy. On both these points there is obviously much need of light among us; and only careful study can supply that light.

Before entering on that study, however, it is needful:

I. To take some account of what others have done in the same line; that is to say, of the history of the study.

II. To ascertain just what is its subject-matter.

III. To determine just what are the best methods by which to develop it, and the most clarifying political conceptions to carry with us into it.

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Unless we know and settle these things, we shall set out without chart or compass.

I.

The science of administration is the latest fruit of that study of the science of politics which was begun some twenty-two hundred years ago. It is a birth of our own century, almost of our own generation.

Why was it so late in coming? Why did it wait till this too busy century of ours to demand attention for itself? Administration is the most obvious part of government; it is government in action; it is the executive, the operative, the most visible side of government, and is of course as old as government itself. It is government in action, and one might very naturally expect to find that government in action had arrested the attention and provoked the scrutiny of writers of politics very early in the history of systematic thought.

But such was not the case. No one wrote systematically of administration as a branch of the science of government until the present century had passed its first youth and had begun to put forth its characteristic flower of systematic knowledge. Up to our own day all the political writers whom we now read had thought, argued, dogmatized only about the *constitution* of government; about the nature of the state, the essence and seat of sovereignty, popular power and kingly prerogative; about the greatest meanings lying at the heart of government, and the high ends set before the purpose of government by man's nature and man's aims. The central field of controversy was that great field of theory in which monarchy rode tilt against democracy, in which oligarchy would have built for itself strongholds of privilege, and in which tyranny sought opportunity to make good its claim to receive submission from all competitors. Amidst this high warfare of principles, administration could command no pause for its own consideration. The question was always: Who shall make law, and what shall that law be? The other question, how law should be administered with enlightenment, with equity, with speed, and without friction,

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was put aside as "practical detail" which clerks could arrange after doctors had agreed upon principles.

That political philosophy took this direction was of course no accident, no chance preference or perverse whim of political philosophers. The philosophy of any time is, as Hegel says, "nothing but the spirit of that time expressed in abstract thought"; and political philosophy, like philosophy of every other kind, has only held up the mirror to contemporary affairs. The trouble in early times was almost altogether about the constitution of government; and consequently that was what engrossed men's thoughts. There was little or no trouble about administration, — at least little that was heeded by administrators. The functions of government were simple, because life itself was simple. Government went about imperatively and compelled men, without thought of consulting their wishes. There was no complex system of public revenues and public debts to puzzle financiers; there were, consequently, no financiers to be puzzled. No one who possessed power was long at a loss how to use it. The great and only question was: Who shall possess it? Populations were of manageable numbers; property was of simple sorts. There were plenty of farms, but no stocks and bonds: more cattle than vested interests.

I have said that all this was true of "early times"; but it was substantially true also of comparatively late times. One does not have to look back of the last century for the beginnings of the present complexities of trade and perplexities of commercial speculation, nor for the portentous birth of national debts. Good Queen Bess, doubtless, thought that the monopolies of the sixteenth century were hard enough to handle without burning her hands; but they are not remembered in the presence of the giant monopolies of the nineteenth century. When Blackstone lamented that corporations had no bodies to be kicked and no souls to be damned, he was anticipating the proper time for such regrets by full a century. The perennial discords between master and workmen which now so often disturb industrial society began before the Black Death and the Statute of Laborers; but never before our own day did they assume such ominous

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proportions as they wear now. In brief, if difficulties of governmental action are to be seen gathering in other centuries, they are to be seen culminating in our own.

This is the reason why administrative tasks have nowadays to be so studiously and systematically adjusted to carefully tested standards of policy, the reason why we are having now what we never had before, a science of administration. The weightier debates of constitutional principle are even yet by no means concluded; but they are no longer of more immediate practical moment than questions of administration. It is getting to be harder to *run* a constitution than to frame one.

Here is Mr. Bagehot's graphic, whimsical way of depicting the difference between the old and the new in administration:

> In early times, when a despot wishes to govern a distant province, he sends down a satrap on a grand horse, and other people on little horses; and very little is heard of the satrap again unless he send back some of the little people to tell what he has been doing. No great labour of superintendence is possible. Common rumour and casual report are the sources of intelligence. If it seems certain that the province is in a bad state, satrap No. 1 is recalled, and satrap No. 2 sent out in his stead. In civilized countries the process is different. You erect a bureau in the province you want to govern; you make it write letters and copy letters; it sends home eight reports *per diem* to the head bureau in St. Petersburg. Nobody does a sum in the province without some one doing the same sum in the capital, to "check" him, and see that he does it correctly. The consequence of this is, to throw on the heads of departments an amount of reading and labour which can only be accomplished by the greatest natural aptitude, the most efficient training, the most firm and regular industry.[1]

There is scarcely a single duty of government which was once simple which is not now complex; government once had but a few masters; it now has scores of masters. Majorities formerly only underwent government; they now conduct government. Where government once might follow the whims of a court, it must now follow the views of a nation.

And those views are steadily widening to new conceptions of state duty; so that, at the same time that the functions of government are every day becoming more complex and difficult,

[1] Essay on Sir William Pitt.

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they are also vastly multiplying in number. Administration is everywhere putting its hands to new undertakings. The utility, cheapness, and success of the government's postal service, for instance, point towards the early establishment of governmental control of the telegraph system. Or, even if our government is not to follow the lead of the governments of Europe in buying or building both telegraph and railroad lines, no one can doubt that in some way it must make itself master of masterful corporations. The creation of national commissioners of railroads, in addition to the older state commissions, involves a very important and delicate extension of administrative functions. Whatever hold of authority state or federal governments are to take upon corporations, there must follow cares and responsibilities which will require not a little wisdom, knowledge, and experience. Such things must be studied in order to be well done. And these, as I have said, are only a few of the doors which are being opened to offices of government. The idea of the state and the consequent ideal of its duty are undergoing noteworthy change; and "the idea of the state is the conscience of administration." Seeing every day new things which the state ought to do, the next thing is to see clearly how it ought to do them.

This is why there should be a science of administration which shall seek to straighten the paths of government, to make its business less unbusinesslike, to strengthen and purify its organization, and to crown its duties with dutifulness. This is one reason why there is such a science.

But where has this science grown up? Surely not on this side the sea. Not much impartial scientific method is to be discerned in our administrative practices. The poisonous atmosphere of city government, the crooked secrets of state administration, the confusion, sinecurism, and corruption ever and again discovered in the bureaux at Washington forbid us to believe that any clear conceptions of what constitutes good administration are as yet very widely current in the United States. No; American writers have hitherto taken no very important part in the advancement of this science. It has

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found its doctors in Europe. It is not of our making; it is a foreign science, speaking very little of the language of English or American principle. It employs only foreign tongues; it utters none but what are to our minds alien ideas. Its aims, its examples, its conditions, are almost exclusively grounded in the histories of foreign races, in the precedents of foreign systems, in the lessons of foreign revolutions. It has been developed by French and German professors, and is consequently in all parts adapted to the needs of a compact state, and made to fit highly centralized forms of government; whereas, to answer our purposes, it must be adapted, not to a simple and compact, but to a complex and multiform state, and made to fit highly decentralized forms of government. If we would employ it, we must Americanize it, and that not formally, in language merely, but radically, in thought, principle, and aim as well. It must learn our constitutions by heart; must get the bureaucratic fever out of its veins; must inhale much free American air.

If an explanation be sought why a science manifestly so susceptible of being made useful to all governments alike should have received attention first in Europe, where government has long been a monopoly, rather than in England or the United States, where government has long been a common franchise, the reason will doubtless be found to be twofold: first, that in Europe, just because government was independent of popular assent, there was more governing to be done; and, second, that the desire to keep government a monopoly made the monopolists interested in discovering the least irritating means of governing. They were, besides, few enough to adopt means promptly.

It will be instructive to look into this matter a little more closely. In speaking of European governments I do not, of course, include England. She has not refused to change with the times. She has simply tempered the severity of the transition from a polity of aristocratic privilege to a system of democratic power by slow measures of constitutional reform which, without preventing revolution, has confined it to paths of peace.

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But the countries of the continent for a long time desperately struggled against all change, and would have diverted revolution by softening the asperities of absolute government. They sought so to perfect their machinery as to destroy all wearing friction, so to sweeten their methods with consideration for the interests of the governed as to placate all hindering hatred, and so assiduously and opportunely to offer their aid to all classes of undertakings as to render themselves indispensable to the industrious. They did at last give the people constitutions and the franchise; but even after that they obtained leave to continue despotic by becoming paternal. They made themselves too efficient to be dispensed with, too smoothly operative to be noticed, too enlightened to be inconsiderately questioned, too benevolent to be suspected, too powerful to be coped with. All this has required study; and they have closely studied it.

On this side the sea we, the while, had known no great difficulties of government. With a new country, in which there was room and remunerative employment for everybody, with liberal principles of government and unlimited skill in practical politics, we were long exempted from the need of being anxiously careful about plans and methods of administration. We have naturally been slow to see the use or significance of those many volumes of learned research and painstaking examination into the ways and means of conducting government which the presses of Europe have been sending to our libraries. Like a lusty child, government with us has expanded in nature and grown great in stature, but has also become awkward in movement. The vigor and increase of its life has been altogether out of proportion to its skill in living. It has gained strength, but it has not acquired deportment. Great, therefore, as has been our advantage over the countries of Europe in point of ease and health of constitutional development, now that the time for more careful administrative adjustments and larger administrative knowledge has come to us, we are at a signal disadvantage as compared with the transatlantic nations; and this for reasons which I shall try to make clear.

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Judging by the constitutional histories of the chief nations of the modern world, there may be said to be three periods of growth through which government has passed in all the most highly developed of existing systems, and through which it promises to pass in all the rest. The first of these periods is that of absolute rulers, and of an administrative system adapted to absolute rule; the second is that in which constitutions are framed to do away with absolute rulers and substitute popular control, and in which administration is neglected for these higher concerns; and the third is that in which the sovereign people undertake to develop administration under this new constitution which has brought them into power.

Those governments are now in the lead in administrative practice which had rulers still absolute but also enlightened when those modern days of political illumination came in which it was made evident to all but the blind that governors are properly only the servants of the governed. In such governments administration has been organized to subserve the general weal with the simplicity and effectiveness vouchsafed only to the undertakings of a single will.

Such was the case in Prussia, for instance, where administration has been most studied and most nearly perfected. Frederic the Great, stern and masterful as was his rule, still sincerely professed to regard himself as only the chief servant of the state, to consider his great office a public trust; and it was he who, building upon the foundations laid by his father, began to organize the public service of Prussia as in very earnest a service of the public. His no less absolute successor, Frederic William III, under the inspiration of Stein, again, in his turn, advanced the work still further, planning many of the broader structural features which give firmness and form to Prussian administration to-day. Almost the whole of the admirable system has been developed by kingly initiative.

Of similar origin was the practice, if not the plan, of modern French administration, with its symmetrical divisions of territory and its orderly gradations of office. The days of the Revolution — of the Constituent Assembly — were days of

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constitution-*writing*, but they can hardly be called days of constitution-*making*. The Revolution heralded a period of constitutional development, — the entrance of France upon the second of those periods which I have enumerated, — but it did not itself inaugurate such a period. It interrupted and unsettled absolutism, but did not destroy it. Napoleon succeeded the monarchs of France, to exercise a power as unrestricted as they had ever possessed.

The recasting of French administration by Napoleon is, therefore, my second example of the perfecting of civil machinery by the single will of an absolute ruler before the dawn of a constitutional era. No corporate, popular will could ever have effected arrangements such as those which Napoleon commanded. Arrangements so simple at the expense of local prejudice, so logical in their indifference to popular choice, might be decreed by a Constituent Assembly, but could be established only by the unlimited authority of a despot. The system of the year VIII was ruthlessly thorough and heartlessly perfect. It was, besides, in large part, a return to the despotism that had been overthrown.

Among those nations, on the other hand, which entered upon a season of constitution-making and popular reform before administration had received the impress of liberal principle, administrative improvement has been tardy and half-done. Once a nation has embarked in the business of manufacturing constitutions, it finds it exceedingly difficult to close out that business and open for the public a bureau of skilled, economical administration. There seems to be no end to the tinkering of constitutions. Your ordinary constitution will last you hardly ten years without repairs or additions; and the time for administrative detail comes late.

Here, of course, our examples are England and our own country. In the days of the Angevin kings, before constitutional life had taken root in the Great Charter, legal and administrative reforms began to proceed with sense and vigor under the impulse of Henry II's shrewd, busy, pushing, indomitable spirit and purpose; and kingly initiative seemed destined in England,

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as elsewhere, to shape governmental growth at its will. But impulsive, errant Richard and weak, despicable John were not the men to carry out such schemes as their father's. Administrative development gave place in their reigns to constitutional struggles; and Parliament became king before any English monarch had had the practical genius or the enlightened conscience to devise just and lasting forms for the civil service of the state.

The English race, consequently, has long and successfully studied the art of curbing executive power to the constant neglect of the art of perfecting executive methods. It has exercised itself much more in controlling than in energizing government. It has been more concerned to render government just and moderate than to make it facile, well-ordered, and effective. English and American political history has been a history, not of administrative development, but of legislative oversight, — not of progress in governmental organization, but of advance in law-making and political criticism. Consequently, we have reached a time when administrative study and creation are imperatively necessary to the well-being of our governments saddled with the habits of a long period of constitution-making. That period has practically closed, so far as the establishment of essential principles is concerned, but we cannot shake off its atmosphere. We go on criticizing when we ought to be creating. We have reached the third of the periods I have mentioned, — the period, namely, when the people have to develop administration in accordance with the constitutions they won for themselves in a previous period of struggle with absolute power; but we are not prepared for the tasks of the new period.

Such an explanation seems to afford the only escape from blank astonishment at the fact that, in spite of our vast advantages in point of political liberty, and above all in point of practical political skill and sagacity, so many nations are ahead of us in administrative organization and administrative skill. Why, for instance, have we but just begun purifying a civil service which was rotten full fifty years ago? To say that slavery

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diverted us is but to repeat what I have said — that flaws in our constitution delayed us.

Of course all reasonable preference would declare for this English and American course of politics rather than for that of any European country. We should not like to have had Prussia's history for the sake of having Prussia's administrative skill; and Prussia's particular system of administration would quite suffocate us. It is better to be untrained and free than to be servile and systematic. Still there is no denying that it would be better yet to be both free in spirit and proficient in practice. It is this even more reasonable preference which impels us to discover what there may be to hinder or delay us in naturalizing this much-to-be-desired science of administration.

What, then, is there to prevent?

Well, principally, popular sovereignty. It is harder for democracy to organize administration than for monarchy. The very completeness of our most cherished political successes in the past embarrasses us. We have enthroned public opinion; and it is forbidden us to hope during its reign for any quick schooling of the sovereign in executive expertness or in the conditions of perfect functional balance in government. The very fact that we have realized popular rule in its fulness has made the task of *organizing* that rule just so much the more difficult. In order to make any advance at all we must instruct and persuade a multitudinous monarch called public opinion, — a much less feasible undertaking than to influence a single monarch called a king. An individual sovereign will adopt a simple plan and carry it out directly: he will have but one opinion, and he will embody that one opinion in one command. But this other sovereign, the people, will have a score of differing opinions. They can agree upon nothing simple: advance must be made through compromise, by a compounding of differences, by a trimming of plans and a suppression of too straightforward principles. There will be a succession of resolves running through a course of years, a dropping fire of commands running through a whole gamut of modifications.

In government, as in virtue, the hardest of hard things is

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to make progress. Formerly the reason for this was that the single person who was sovereign was generally either selfish, ignorant, timid, or a fool, — albeit there was now and again one who was wise. Nowadays the reason is that the many, the people, who are sovereign have no single ear which one can approach, and are selfish, ignorant, timid, stubborn, or foolish with the selfishnesses, the ignorances, the stubbornnesses, the timidities, or the follies of several thousand persons, — albeit there are hundreds who are wise. Once the advantage of the reformer was that the sovereign's mind had a definite locality, that it was contained in one man's head, and that consequently it could be gotten at; though it was his disadvantage that that mind learned only reluctantly or only in small quantities, or was under the influence of some one who let it learn only the wrong things. Now, on the contrary, the reformer is bewildered by the fact that the sovereign's mind has no definite locality, but is contained in a voting majority of several million heads; and embarrassed by the fact that the mind of this sovereign also is under the influence of favorites, who are none the less favorites in a good old-fashioned sense of the word because they are not persons but preconceived opinions; *i.e.*, prejudices which are not to be reasoned with because they are not the children of reason.

Wherever regard for public opinion is a first principle of government, practical reform must be slow and all reform must be full of compromises. For wherever public opinion exists it must rule. This is now an axiom half the world over, and will presently come to be believed even in Russia. Whoever would effect a change in a modern constitutional government must first educate his fellow-citizens to want *some* change. That done, he must persuade them to want the particular change he wants. He must first make public opinion willing to listen and then see to it that it listen to the right things. He must stir it up to search for an opinion, and then manage to put the right opinion in its way.

The first step is not less difficult than the second. With opinions, possession is more than nine points of the law. It is

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next to impossible to dislodge them. Institutions which one generation regards as only a makeshift approximation to the realization of a principle, the next generation honors as the nearest possible approximation to that principle, and the next worships as the principle itself. It takes scarcely three generations for the apotheosis. The grandson accepts his grandfather's hesitating experiment as an integral part of the fixed constitution of nature.

Even if we had clear insight into all the political past, and could form out of perfectly instructed heads a few steady, infallible, placidly wise maxims of government into which all sound political doctrine would be ultimately resolvable, *would the country act on them?* That is the question. The bulk of mankind is rigidly unphilosophical, and nowadays the bulk of mankind votes. A truth must become not only plain but also commonplace before it will be seen by the people who go to their work very early in the morning; and not to act upon it must involve great and pinching inconveniences before these same people will make up their minds to act upon it.

And where is this unphilosophical bulk of mankind more multifarious in its composition than in the United States? To know the public mind of this country, one must know the mind, not of Americans of the older stocks only, but also of Irishmen, of Germans, of negroes. In order to get a footing for new doctrine, one must influence minds cast in every mould of race, minds inheriting every bias of environment, warped by the histories of a score of different nations, warmed or chilled, closed or expanded by almost every climate of the globe.

So much, then, for the history of the study of administration, and the peculiarly difficult conditions under which, entering upon it when we do, we must undertake it. What, now, is the subject-matter of this study, and what are its characteristic objects?

II.

The field of administration is a field of business. It is removed from the hurry and strife of politics; it at most points stands apart even from the debatable ground of constitutional

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study. It is a part of political life only as the methods of the counting-house are a part of the life of society; only as machinery is part of the manufactured product. But it is, at the same time, raised very far above the dull level of mere technical detail by the fact that through its greater principles it is directly connected with the lasting maxims of political wisdom, the permanent truths of political progress.

The object of administrative study is to rescue executive methods from the confusion and costliness of empirical experiment and set them upon foundations laid deep in stable principle.

It is for this reason that we must regard civil-service reform in its present stages as but a prelude to a fuller administrative reform. We are now rectifying methods of appointment; we must go on to adjust executive functions more fitly and to prescribe better methods of executive organization and action. Civil-service reform is thus but a moral preparation for what is to follow. It is clearing the moral atmosphere of official life by establishing the sanctity of public office as a public trust, and, by making the service unpartisan, it is opening the way for making it businesslike. By sweetening its motives it is rendering it capable of improving its methods of work.

Let me expand a little what I have said of the province of administration. Most important to be observed is the truth already so much and so fortunately insisted upon by our civil-service reformers; namely, that administration lies outside the proper sphere of *politics*. Administrative questions are not political questions. Although politics sets the tasks for administration, it should not be suffered to manipulate its offices.

This is distinction of high authority; eminent German writers insist upon it as of course. Bluntschli,[1] for instance, bids us separate administration alike from politics and from law. Politics, he says, is state activity "in things great and universal," while "administration, on the other hand," is "the activity of the state in individual and small things. Politics is thus the special province of the statesman, administration of the technical official." "Policy does nothing without the aid of adminis-

[1] Politik, S. 467.

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tration"; but administration is not therefore politics. But we do not require German authority for this position; this discrimination between administration and politics is now, happily, too obvious to need further discussion.

There is another distinction which must be worked into all our conclusions, which, though but another side of that between administration and politics, is not quite so easy to keep sight of: I mean the distinction between *constitutional* and administrative questions, between those governmental adjustments which are essential to constitutional principle and those which are merely instrumental to the possibly changing purposes of a wisely adapting convenience.

One cannot easily make clear to every one just where administration resides in the various departments of any practicable government without entering upon particulars so numerous as to confuse and distinctions so minute as to distract. No lines of demarcation, setting apart administrative from non-administrative functions, can be run between this and that department of government without being run up hill and down dale, over dizzy heights of distinction and through dense jungles of statutory enactment, hither and thither around "ifs" and "buts," "whens" and "howevers," until they become altogether lost to the common eye not accustomed to this sort of surveying, and consequently not acquainted with the use of the theodolite of logical discernment. A great deal of administration goes about *incognito* to most of the world, being confounded now with political "management," and again with constitutional principle.

Perhaps this ease of confusion may explain such utterances as that of Niebuhr's: "Liberty," he says, "depends incomparably more upon administration than upon constitution." At first sight this appears to be largely true. Apparently facility in the actual exercise of liberty does depend more upon administrative arrangements than upon constitutional guarantees; although constitutional guarantees alone secure the existence of liberty. But — upon second thought — is even so much as this true? Liberty no more consists in easy functional movement than intelligence consists in the ease and vigor with

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which the limbs of a strong man move. The principles that rule within the man, or the constitution, are the vital springs of liberty or servitude. Because dependence and subjection are without chains, are lightened by every easy-working device of considerate, paternal government, they are not thereby transformed into liberty. Liberty cannot live apart from constitutional principle; and no administration, however perfect and liberal its methods, can give men more than a poor counterfeit of liberty if it rest upon illiberal principles of government.

A clear view of the difference between the province of constitutional law and the province of administrative function ought to leave no room for misconception; and it is possible to name some roughly definite criteria upon which such a view can be built. Public administration is detailed and systematic execution of public law. Every particular application of general law is an act of administration. The assessment and raising of taxes, for instance, the hanging of a criminal, the transportation and delivery of the mails, the equipment and recruiting of the army and navy, *etc.*, are all obviously acts of administration; but the general laws which direct these things to be done are as obviously outside of and above administration. The broad plans of governmental action are not administrative; the detailed execution of such plans is administrative. Constitutions, therefore, properly concern themselves only with those instrumentalities of government which are to control general law. Our federal constitution observes this principle in saying nothing of even the greatest of the purely executive offices, and speaking only of that President of the Union who was to share the legislative and policy-making functions of government, only of those judges of highest jurisdiction who were to interpret and guard its principles, and not of those who were merely to give utterance to them.

This is not quite the distinction between Will and answering Deed, because the administrator should have and does have a will of his own in the choice of means for accomplishing his work. He is not and ought not to be a mere passive instrument. The distinction is between general plans and special means.

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There is, indeed, one point at which administrative studies trench on constitutional ground — or at least upon what seems constitutional ground. The study of administration, philosophically viewed, is closely connected with the study of the proper distribution of constitutional authority. To be efficient it must discover the simplest arrangements by which responsibility can be unmistakably fixed upon officials; the best way of dividing authority without hampering it, and responsibility without obscuring it. And this question of the distribution of authority, when taken into the sphere of the higher, the originating functions of government, is obviously a central constitutional question. If administrative study can discover the best principles upon which to base such distribution, it will have done constitutional study an invaluable service. Montesquieu did not, I am convinced, say the last word on this head.

To discover the best principle for the distribution of authority is of greater importance, possibly, under a democratic system, where officials serve many masters, than under others where they serve but a few. All sovereigns are suspicious of their servants, and the sovereign people is no exception to the rule; but how is its suspicion to be allayed by *knowledge?* If that suspicion could but be clarified into wise vigilance, it would be altogether salutary; if that vigilance could be aided by the unmistakable placing of responsibility, it would be altogether beneficent. Suspicion in itself is never healthful either in the private or in the public mind. *Trust is strength* in all relations of life; and, as it is the office of the constitutional reformer to create conditions of trustfulness, so it is the office of the administrative organizer to fit administration with conditions of clear-cut responsibility which shall insure trustworthiness.

And let me say that large powers and unhampered discretion seem to me the indispensable conditions of responsibility. Public attention must be easily directed, in each case of good or bad administration, to just the man deserving of praise or blame. There is no danger in power, if only it be not irresponsible. If it be divided, dealt out in shares to many, it is obscured; and if it be obscured, it is made irresponsible. But

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if it be centred in heads of the service and in heads of branches of the service, it is easily watched and brought to book. If to keep his office a man must achieve open and honest success, and if at the same time he feels himself intrusted with large freedom of discretion, the greater his power the less likely is he to abuse it, the more is he nerved and sobered and elevated by it. The less his power, the more safely obscure and unnoticed does he feel his position to be, and the more readily does he relapse into remissness.

Just here we manifestly emerge upon the field of that still larger question, — the proper relations between public opinion and administration.

To whom is official trustworthiness to be disclosed, and by whom is it to be rewarded? Is the official to look to the public for his meed of praise and his push of promotion, or only to his superior in office? Are the people to be called in to settle administrative discipline as they are called in to settle constitutional principles? These questions evidently find their root in what is undoubtedly the fundamental problem of this whole study. That problem is: What part shall public opinion take in the conduct of administration?

The right answer seems to be, that public opinion shall play the part of authoritative critic.

But the *method* by which its authority shall be made to tell? Our peculiar American difficulty in organizing administration is not the danger of losing liberty, but the danger of not being able or willing to separate its essentials from its accidents. Our success is made doubtful by that besetting error of ours, the error of trying to do too much by vote. Self-government does not consist in having a hand in everything, any more than housekeeping consists necessarily in cooking dinner with one's own hands. The cook must be trusted with a large discretion as to the management of the fires and the ovens.

In those countries in which public opinion has yet to be instructed in its privileges, yet to be accustomed to having its own way, this question as to the province of public opinion is much more readily soluble than in this country, where public

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opinion is wide awake and quite intent upon having its own way anyhow. It is pathetic to see a whole book written by a German professor of political science for the purpose of saying to his countrymen, "Please try to have an opinion about national affairs"; but a public which is so modest may at least be expected to be very docile and acquiescent in learning what things it has *not* a right to think and speak about imperatively. It may be sluggish, but it will not be meddlesome. It will submit to be instructed before it tries to instruct. Its political education will come before its political activity. In trying to instruct our own public opinion, we are dealing with a pupil apt to think itself quite sufficiently instructed beforehand.

The problem is to make public opinion efficient without suffering it to be meddlesome. Directly exercised, in the oversight of the daily details and in the choice of the daily means of government, public criticism is of course a clumsy nuisance, a rustic handling delicate machinery. But as superintending the greater forces of formative policy alike in politics and administration, public criticism is altogether safe and beneficent, altogether indispensable. Let administrative study find the best means for giving public criticism this control and for shutting it out from all other interference.

But is the whole duty of administrative study done when it has taught the people what sort of administration to desire and demand, and how to get what they demand? Ought it not to go on to drill candidates for the public service?

There is an admirable movement towards universal political education now afoot in this country. The time will soon come when no college of respectability can afford to do without a well-filled chair of political science. But the education thus imparted will go but a certain length. It will multiply the number of intelligent critics of government, but it will create no competent body of administrators. It will prepare the way for the development of a sure-footed understanding of the general principles of government, but it will not necessarily foster skill in conducting government. It is an education which will equip legislators, perhaps, but not executive officials. If we are

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to improve public opinion, which is the motive power of government, we must prepare better officials as the *apparatus* of government. If we are to put in new boilers and to mend the fires which drive our governmental machinery, we must not leave the old wheels and joints and valves and bands to creak and buzz and clatter on as best they may at bidding of the new force. We must put in new running parts wherever there is the least lack of strength or adjustment. It will be necessary to organize democracy by sending up to the competitive examinations for the civil service men definitely prepared for standing liberal tests as to technical knowledge. A technically schooled civil service will presently have become indispensable.

I know that a corps of civil servants prepared by a special schooling and drilled, after appointment, into a perfected organization, with appropriate hierarchy and characteristic discipline, seems to a great many very thoughtful persons to contain elements which might combine to make an offensive official class, — a distinct, semi-corporate body with sympathies divorced from those of a progressive, free-spirited people, and with hearts narrowed to the meanness of a bigoted officialism. Certainly such a class would be altogether hateful and harmful in the United States. Any measures calculated to produce it would for us be measures of reaction and of folly.

But to fear the creation of a domineering, illiberal officialism as a result of the studies I am here proposing is to miss altogether the principle upon which I wish most to insist. That principle is, that administration in the United States must be at all points sensitive to public opinion. A body of thoroughly trained officials serving during good behavior we must have in any case: that is a plain business necessity. But the apprehension that such a body will be anything un-American clears away the moment it is asked, What is to constitute good behavior? For that question obviously carries its own answer on its face. Steady, hearty allegiance to the policy of the government they serve will constitute good behavior. That *policy* will have no taint of officialism about it. It will not be the creation of permanent officials, but of statesmen whose responsibility to public

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opinion will be direct and inevitable. Bureaucracy can exist only where the whole service of the state is removed from the common political life of the people, its chiefs as well as its rank and file. Its motives, its objects, its policy, its standards, must be bureaucratic. It would be difficult to point out any examples of impudent exclusiveness and arbitrariness on the part of officials doing service under a chief of department who really served the people, as all our chiefs of departments must be made to do. It would be easy, on the other hand, to adduce other instances like that of the influence of Stein in Prussia, where the leadership of one statesman imbued with true public spirit transformed arrogant and perfunctory bureaux into public-spirited instruments of just government.

The ideal for us is a civil service cultured and self-sufficient enough to act with sense and vigor, and yet so intimately connected with the popular thought, by means of elections and constant public counsel, as to find arbitrariness or class spirit quite out of the question.

III.

Having thus viewed in some sort the subject-matter and the objects of this study of administration, what are we to conclude as to the methods best suited to it — the points of view most advantageous for it?

Government is so near us, so much a thing of our daily familiar handling, that we can with difficulty see the need of any philosophical study of it, or the exact point of such study, should it be undertaken. We have been on our feet too long to study now the art of walking. We are a practical people, made so apt, so adept in self-government by centuries of experimental drill that we are scarcely any longer capable of perceiving the awkwardness of the particular system we may be using, just because it is so easy for us to use any system. We do not study the art of governing: we govern. But mere unschooled genius for affairs will not save us from sad blunders in administration. Though democrats by long inheritance and repeated choice, we are still rather crude democrats. Old as democracy

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is, its organization on a basis of modern ideas and conditions is still an unaccomplished work. The democratic state has yet to be equipped for carrying those enormous burdens of administration which the needs of this industrial and trading age are so fast accumulating. Without comparative studies in government we cannot rid ourselves of the misconception that administration stands upon an essentially different basis in a democratic state from that on which it stands in a non-democratic state.

After such study we could grant democracy the sufficient honor of ultimately determining by debate all essential questions affecting the public weal, of basing all structures of policy upon the major will; but we would have found but one rule of good administration for all governments alike. So far as administrative functions are concerned, all governments have a strong structural likeness; more than that, if they are to be uniformly useful and efficient, they *must* have a strong structural likeness. A free man has the same bodily organs, the same executive parts, as the slave, however different may be his motives, his services, his energies. Monarchies and democracies, radically different as they are in other respects, have in reality much the same business to look to.

It is abundantly safe nowadays to insist upon this actual likeness of all governments, because these are days when abuses of power are easily exposed and arrested, in countries like our own, by a bold, alert, inquisitive, detective public thought and a sturdy popular self-dependence such as never existed before. We are slow to appreciate this; but it is easy to appreciate it. Try to imagine personal government in the United States. It is like trying to imagine a national worship of Zeus. Our imaginations are too modern for the feat.

But, besides being safe, it is necessary to see that for all governments alike the legitimate ends of administration are the same, in order not to be frightened at the idea of looking into foreign systems of administration for instruction and suggestion; in order to get rid of the apprehension that we might perchance blindly borrow something incompatible with our principles. That man is blindly astray who denounces attempts to

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transplant foreign systems into this country. It is impossible: they simply would not grow here. But why should we not use such parts of foreign contrivances as we want, if they be in any way serviceable? We are in no danger of using them in a foreign way. We borrowed rice, but we do not eat it with chopsticks. We borrowed our whole political language from England, but we leave the words "king" and "lords" out of it. What did we ever originate, except the action of the federal government upon individuals and some of the functions of the federal supreme court?

We can borrow the science of administration with safety and profit if only we read all fundamental differences of condition into its essential tenets. We have only to filter it through our constitutions, only to put it over a slow fire of criticism and distil away its foreign gases.

I know that there is a sneaking fear in some conscientiously patriotic minds that studies of European systems might signalize some foreign methods as better than some American methods; and the fear is easily to be understood. But it would scarcely be avowed in just any company.

It is the more necessary to insist upon thus putting away all prejudices against looking anywhere in the world but at home for suggestions in this study, because nowhere else in the whole field of politics, it would seem, can we make use of the historical, comparative method more safely than in this province of administration. Perhaps the more novel the forms we study the better. We shall the sooner learn the peculiarities of our own methods. We can never learn either our own weaknesses or our own virtues by comparing ourselves with ourselves. We are too used to the appearance and procedure of our own system to see its true significance. Perhaps even the English system is too much like our own to be used to the most profit in illustration. It is best on the whole to get entirely away from our own atmosphere and to be most careful in examining such systems as those of France and Germany. Seeing our own institutions through such *media*, we see ourselves as foreigners might see us were they to look at us without preconcep-

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tions. Of ourselves, so long as we know only ourselves, we know nothing.

Let it be noted that it is the distinction, already drawn, between administration and politics which makes the comparative method so safe in the field of administration. When we study the administrative systems of France and Germany, knowing that we are not in search of *political* principles, we need not care a peppercorn for the constitutional or political reasons which Frenchmen or Germans give for their practices when explaining them to us. If I see a murderous fellow sharpening a knife cleverly, I can borrow his way of sharpening the knife without borrowing his probable intention to commit murder with it; and so, if I see a monarchist dyed in the wool managing a public bureau well, I can learn his business methods without changing one of my republican spots. He may serve his king; I will continue to serve the people; but I should like to serve my sovereign as well as he serves his. By keeping this distinction in view, — that is, by studying administration as a means of putting our own politics into convenient practice, as a means of making what is democratically politic towards all administratively possible towards each, — we are on perfectly safe ground, and can learn without error what foreign systems have to teach us. We thus devise an adjusting weight for our comparative method of study. We can thus scrutinize the anatomy of foreign governments without fear of getting any of their diseases into our veins; dissect alien systems without apprehension of blood-poisoning.

Our own politics must be the touchstone for all theories. The principles on which to base a science of administration for America must be principles which have democratic policy very much at heart. And, to suit American habit, all general theories must, as theories, keep modestly in the background, not in open argument only, but even in our own minds, — lest opinions satisfactory only to the standards of the library should be dogmatically used, as if they must be quite as satisfactory to the standards of practical politics as well. Doctrinaire devices must be postponed to tested practices. Arrangements not only

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santioned by conclusive experience elsewhere but also congenial to American habit must be preferred without hesitation to theoretical perfection. In a word, steady, practical statesmanship must come first, closet doctrine second. The cosmopolitan what-to-do must always be commanded by the American how-to-do-it.

Our duty is, to supply the best possible life to a *federal* organization, to systems within systems; to make town, city, county, state, and federal governments live with a like strength and an equally assured healthfulness, keeping each unquestionably its own master and yet making all interdependent and co-operative, combining independence with mutual helpfulness. The task is great and important enough to attract the best minds.

This interlacing of local self-government with federal self-government is quite a modern conception. It is not like the arrangements of imperial federation in Germany. There local government is not yet, fully, local *self*-government. The bureaucrat is everywhere busy. His efficiency springs out of *esprit de corps*, out of care to make ingratiating obeisance to the authority of a superior, or, at best, out of the soil of a sensitive conscience. He serves, not the public, but an irresponsible minister. The question for us is, how shall our series of governments within governments be so administered that it shall always be to the interest of the public officer to serve, not his superior alone but the community also, with the best efforts of his talents and the soberest service of his conscience? How shall such service be made to his commonest interest by contributing abundantly to his sustenance, to his dearest interest by furthering his ambition, and to his highest interest by advancing his honor and establishing his character? And how shall this be done alike for the local part and for the national whole?

If we solve this problem we shall again pilot the world. There is a tendency — is there not? — a tendency as yet dim, but already steadily impulsive and clearly destined to prevail, towards, first the confederation of parts of empires like the

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British, and finally of great states themselves. Instead of centralization of power, there is to be wide union with tolerated divisions of prerogative. This is a tendency towards the American type — of governments joined with governments for the pursuit of common purposes, in honorary equality and honorable subordination. Like principles of civil liberty are everywhere fostering like methods of government; and if comparative studies of the ways and means of government should enable us to offer suggestions which will practicably combine openness and vigor in the administration of such governments with ready docility to all serious, well-sustained public criticism, they will have approved themselves worthy to be ranked among the highest and most fruitful of the great departments of political study. That they will issue in such suggestions I confidently hope.

WOODROW WILSON.

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RAILWAY TARIFFS AND THE INTERSTATE COMMERCE LAW.

WHEN Solomon de Cause first advanced the idea of employing steam as a propelling power, in 1615, he was shut up in the mad-house as a hopeless maniac. Two centuries later, in 1812, when Colonel Stevens of Hoboken proposed to build a steam railway at far less cost than the projected Erie canal, he was regarded as absurdly visionary and somewhat demented. And yet to-day, within the short span of a human life, we have the vast network of over three hundred thousand miles of iron roads covering the civilized world. It is the central factor of recent economic development. Little wonder, then, that the weighty problems of railway management in its relations to the owners, the employees, and the public, should engross the earnest attention of legislators and publicists throughout the world.

The Interstate Commerce law of 1887 is the first serious attempt at governmental regulation for the whole of the United States. It may be well, therefore, to discuss the provisions of the act in the light of general principles. We shall confine ourselves primarily to a consideration of the railway tariffs, and attempt to ascertain the underlying doctrines and their limitations.

Railway tariffs may be regarded from two essentially different standpoints, — the private and the public. In so far as a railway is a business corporation, it is a private matter. It may fix its prices in accordance with general business principles. It will endeavor to subserve primarily the interests of its owners. It will strive for the greatest possible profits. Its course is legitimate and praiseworthy. But in so far as the railway forms our public highway, it is a public matter. The objective point now is the general welfare, the interests of the community. It

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aims not at the greatest possible profits, but at the greatest possible benefits. It looks not at the interests of its owners, but at the interests of the public. The one point of view is individual, the other is social. The modern railway corporation shares both these characteristics. Its nature is hybrid. To subordinate the public to the private element is plainly inadmissible. To entirely engulf the private in the public element is equally unfair, as long as the railway is not owned by the state. Given the private corporation, the question is: How shall the two elements be reconciled? It is the problem of railway legislation and corporate regulation.

The inequality of railroad charges forms the pith of the complaints usually made. It is the crucial point of corporate management. On the one hand we have the anti-monopolists, who liken the common carriers to the feudal barons of old, using the mediæval weapons of unjust privilege and ill-gotten power to carry out their ends of rapacity and favoritism. On the other side we have the railway managers, who exultingly exclaim, in so far as charges are concerned: All that is, is just. Where now is the truth of the matter?

The principle commonly advanced by the antagonists of the railways, as well as by the would-be reformers, is that of cost of service. Charges should be regulated in accordance with the cost of the particular transaction to the company. This is certainly not the actual method. Is it the correct method? Let us see.

Railway expenses are divided into two great classes, — fixed charges and operating expenses. By fixed charges is simply meant the interest account, the sum necessary to meet the periodically recurring interest on the mortgage debt.[1]

[1] In Europe, not only the interest on the funded debt, but also the dividends on the capital stock are sometimes included in the "fixed charges." This is manifestly fallacious, as it is not legitimate to class as expenses what are really profits. Rates are nowhere determined by the prospective profits, but *vice versa*. *Cf.* Nördling, Die Selbstkosten des Eisenbahntransports und die Wasserstrassenfrage, (Vienna, 1885,) S. 206–210. The matter is, however, of less importance from the fact that with us railways are generally constructed on the proceeds of the mortgage bonds, not of the capital stock, as in Europe. The interest, hence, far exceeds the dividends. In 1885,

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The proportion of fixed charges to operating expenses varies, of course, with each line. A careful calculation on the different branches of a single road found the interest charges to vary from 26 per cent to 59 per cent of the total expenses.[1] But in a rough way it may be said that fixed charges amount to from forty to fifty per cent of the entire expenditures, not alone with us, but also in Europe.[2] In other words, well-nigh half the expenses are constant or invariable. They do not change with the amount of business transacted, but are independent of the traffic. They remain the same whether there be much, little, or no additional traffic.

On the other hand, the operating expenses may be divided into several categories. No uniformity has as yet been attained in the classification of expenses, although the national commission has been empowered to prescribe a uniform system. One method is to divide the expenses into: (*a*) maintenance of road, buildings, and general expenses; (*b*) station expenses; and (*c*) movement expenses. Class *a* will in general be but very slightly affected by the amount of business transacted. Considerable variations in the traffic may take place without a proportionate, if any, increase in the expense involved. They may therefore likewise be set down as constant or invariable expenses. Class *b* will vary, but only in part, with the business transacted. A certain organization must always be maintained, whether the traffic be heavy or light; but after a definite limit is passed, more men must be employed to do more business. These expenses are thus only partially constant. Class *c*, finally, fluctuates almost in proportion to the business transacted. The less trains, the less expense.

The proportion of each of these three classes to the whole will

e.g., 186 million dollars were paid in interest, 77 millions in dividends. *Cf.* Poor's Manual for 1886, p. i. For European figures, see Loisel, Annuaire spécial des chemins de fer belges, 1886, pp. 246 *et seq.*

[1] Fink, Cost of Railroad Transportation (1882), table A, p. 4, for the Louisville and Nashville Railroad.

[2] See the tables in Sax, Die Verkehrsmittel in Stats- und Volkswirthschaft, (1879), Bd. II, S. 368. For France in particular, Baum, Annales des ponts et chaussées, Mémoires, 5me série, t. i, p. 422,

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of course vary with the widely different characteristics of each line; but in general it may be affirmed that about one-half of the operating expenses are constant or invariable.[1]

The total constant expenditures of a railway are thus the fixed charges plus one-half the operating expenses. In other words, a large majority of railway expenses are irrespective of the amount of business. They remain the same, notwithstanding an increase or decrease of the traffic.[2]

This distinction between constant and fluctuating expenses is of vital importance to a correct understanding of the principle of railway rates. It leads to certain conclusions which form the fundamental explanations of actual tariffs.

It is unnecessary to explain the wide disparity of cost of carriage on different lines, or for individual transactions. Certain characteristics affect the roads themselves, such as the grades, the curves, the weight, and speed of the trains, the cost of construction, the quality of the supplies, the changing conditions under which the service is performed at different seasons, *etc.* These alone would show how difficult is the task of accurately determining the cost of carriage for any one service. But the task is complicated by other difficulties. It is apparent that the cost of transportation per ton-mile must vary with the tons and the miles, *i.e.*, with the quantity of the freight and the length of the haul. But these differ widely in each case. On one line the greater portion of the freight is carried over its whole length; on another the local business far outweighs the through

[1] Manager Haines, of the Savan. Fla. & W. R. R., divides operating expenses into five classes, and makes a careful calculation that 53 per cent of such expenses do not increase with additional business. Report of Senate Select Committee on Interstate Commerce (1886), App., p. 138. We shall hereafter speak of this as the Cullom report.

[2] Mr. Fink's calculation varies but slightly from the above. He asserts that upon an average of $1 earned in the roads of the United States, 40 cents are required to pay 4½ per cent interest on bonds and stock, 35 cents to pay the movement expenses, and 25 cents to pay maintenance and general expenses. Cullom Committee, Test., p. 95. The New York commission divide operating expenses into maintenance, general and transportation (including station) expenses. But the result is the same. For Europe, see Ulrich, Das Eisenbahn-Tarifwesen (1886), S. 40, but corrected as to Germany in Archiv für Eisenbahnwesen, 1887, S. 253.

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traffic, so that the capacity of the rolling stock is not fully utilized. On one line the traffic moves in great part in one direction, and the number of empty cars returned is abnormally large; on another there is far more back-loading and a more even distribution of the traffic. On one line the trains are started with full loads, on another they are half empty. The proportion of paying to dead weight, or the amount of the tare, is of paramount importance.[1] All these causes influence both the tons and the miles, and thus affect the cost per ton-mile.

Logically, the cost per ton-mile is resolvable into two portions, — that which corresponds to the constant or fixed expenses, and that which corresponds to the fluctuating or variable expenses. The former portion is ascertained simply by dividing the constant expenses by the total ton-miles. It will therefore vary inversely to the traffic.[2] But as the constant expenses form by far the larger portion of the whole, the rate per ton-mile will be determined by this corresponding portion. We conclude then that the cost tends to vary almost inversely to the traffic — the more traffic, the less the cost per ton-mile; the less traffic, the greater the cost per ton-mile. That is to say, even if it were feasible to construct a tariff based on the cost of service of each particular transaction, — in itself a work of gigantic magnitude and infinite difficulty, — such a tariff would be of very slight avail unless the amount of freight remained an unalterable quantity. So soon as the volume of traffic changes, the cost of service is necessarily altered. The rate would no longer be based on cost of service.

[1] The *average* gross weight of freight cars of all classes in the United States is eight tons per car. The average load they carry is five tons. Hence, 59 per cent of the weight hauled in freight traffic is non-paying or dead weight. In passenger traffic the non-paying load is almost 90 per cent, because the cars are not so fully packed. In Germany, in 1880, the dead weight was: for freight cars, 53 per cent (or taking only the loaded cars, 27 per cent); for passenger cars, 76 per cent; for baggage cars, 97 per cent.

[2] Suppose the constant expenditures for transporting seven and a half million ton-miles amount to $75,000. Then —

if there are 7,500,000 ton-miles, cost = $\frac{75000}{7500000} = 1$ c. per ton-mile;
if there are 10,000,000 ton-miles, cost = $\frac{75000}{10000000} = 0.75$ c. per ton-mile;
if there are 5,000,000 ton-miles, cost = $\frac{75000}{5000000} = 1.5$ c. per ton-mile.

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Furthermore, the amount of traffic itself depends to a large extent on the rate. Low rates produce large traffic, high rates make little traffic. This has led to the paradoxical conclusion that cost of service depends on the rate, and not inversely that the rate depends on cost of service. We thus have a curious interaction of cause and effect. But of course this is true only within certain limits, and subject to serious qualifications. The success of a decrease of rates in attracting additional business will operate only up to that point where increased traffic does not imply disproportionately increased expenses. If the additional business necessitates large expenses, like a double track, it may cost more than it is worth. Low rates do not always increase net profits. Again, the success of a decrease of rates will diminish with every successive diminution of the rates. There is a certain limit beyond which the efficacy of reduced rates as a financial venture becomes very problematical. The business is not expansible. On this account the railways rarely reduce charges simultaneously on all kinds of traffic, but experiment gradually with special classes or kinds of business, and even then are often unwilling to undertake the reduction at all.[1]

But if it is even partially true that cost of service depends on the traffic, and therefore on the rate, it cannot be wholly true that the rate depends on the cost of service. The two principles are mutually contradictory. We are thus logically forced to the conclusion that railway charges are not and cannot be based on cost of service alone.

Cost of service does not fix rates. It forms in the long run only the minimum limit of rates. A well-managed road will not consciously continue a losing business, unless, indeed, it be

[1] In regard to freight traffic, the above statement is notoriously true. In regard to passenger traffic, *cf.* the history of third-class traffic in England. In 1844 the railways had to be compelled by law to run cheap trains for third-class passengers, their opposition being silenced only by exempting these trains from the passenger duties. But before long these very trains resulted in immense profits, and to-day constitute by far the most lucrative portion of the passenger business. *Cf.* also the strenuous opposition of the New York elevated railroad to the five-cent bill, while to-day the profits are immensely increased by the voluntary reduction.

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operated by the state as a tax on the community, and no serious thinker has yet proposed this method of running railways. Differences in cost of service between two roads result not in proportionate differences in rates, but simply in different profits. Differences in cost cannot imply corresponding differences of rates. The principle is as applicable to portions of the same line as to different lines, since no two parts of the same line have the same cost of service, and hence if the principle were consistently applied, it would be necessary to make a different rate for each mile of every road, which is absurd. But if rates are fixed according to the *average* cost of service for the whole line, they may equally well be fixed for the average cost of services on all business, in which cases the element of difference of cost for each particular transaction is entirely eliminated. No freight is ever shipped at the average cost of service.

It would hence be foreign to our purpose to attempt an exact mathematical computation of the cost of service. Not only would it be necessary to ascertain the exact percentage of fixed to variable expenses in each particular case, but further to calculate the exact proportion of increase of cost to increase of traffic. Numerous endeavors have been made, but no two agree.[1] And even if successful they would, as we see, be of very slight practical utility.

The cost of service principle is neither practised nor practicable. The attempt to base rates solely in cost is a pure chimera. Well-nigh every expert, whether scientist,[2] official, or legislator, and every parliamentary commission, from the early English to the late Italian and American, absolutely discards it as a principle.[3] But although the rule is impracticable, it is

[1] *Cf.* the works of Chanute, Morehouse, Fink, Kirkman, in America; of Fairbairn, Gordon, Lardner, in England; of Garke, Scheffler, Schüller, Schübler, Nördling, in Germany; of Baum, Jacqmin, Gournerie, Brière, in France; of Brioschi, Genala, Calvori, in Italy.

[2] Even Wagner, the great apostle of state railways, comes to the same conclusion in his last edition. Finanzwissenschaft, 3. Ausg., I, 760–763.

[3] "The movement of a commodity by rail is determined by considerations wholly independent of and not affected by the cost of the service to be performed." Cullom Com. Rep., p. 184. For Italy, *cf.* Atti della Commissione d' Inchiesta sull' esercizio

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asserted by some to be the only just, the ideal method. Before discussing this, let us ascertain the actual principle according to which tariffs are arranged. Only then shall we be able to answer the question of the relative justifiability of the two principles.

How, then, are rates actually fixed? The object of a railway is to make the greatest possible net profits, *i.e.*, to increase its traffic and to decrease its expenses. This it finds can be best attained by lowering the charges on certain classes of goods, or on the same classes to different localities. In other words, what decides the manager is not so much the *cost* of the service as the *value* of the service. This practice has been called "charging what the traffic will bear," an unfortunate expression and liable to much misconception. Charging what the traffic will bear, correctly understood, simply serves as an excuse for reducing rates on the low-class traffic, because it cannot bear higher rates. The phrase is a bad one, because it may be interpreted into meaning that the greatest possible charges on high-class goods are also legitimate. Correctly understood, it justifies lower charges on certain kinds of business; incorrectly understood, it seems to justify extortionate charges on other kinds of business.[1]

Charging what the traffic will bear, in its strict sense, does not fix rates; it determines only the maximum limit of charges, just as mere cost of hauling fixes the minimum limit. Between these limits the rate varies with the value of the service, or, as is sometimes said, is made to conform to the requirements of trade. It becomes a commercial question, and subject to the law of supply and demand. In so far it is a purely private

delle ferrovie italiane (1881), Parte II, Riassunto, II, 932–953. For England, *cf.* Joint Select Committee on Railway Cos. Amalgamation (1872), pp. xxxiii and li. For France, see Rapport de Waddington (1880), in Picard, Chemins de fer français, t. 5 (1884), p. 128. *Cf.* also the statement of the advisory commission on differential rates to the seaboard (Thurman, Washburne, and Cooley) in Proceedings of the Joint Executive Committee (1882), p. 29.

[1] The celebrated phrase of M. Solacroup, the French railway director, is hence regrettable: "En matière de tarification de transports il n'y a qu'une seule règle qui soit rationnelle; c'est de demander à la marchandise tout ce qu'elle peut payer. Tout autre principe est arbitraire." Professor Villey calls it "une phrase vide de sens." Traité d'économie politique (1885), p. 206.

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matter. But the railway is also partly a public institution: hence the necessity for important qualifications of the private business principle, for serious limitations of the law of supply and demand. These qualifications and these limitations have often been completely ignored by the railways, because of their mistaken assumption of being purely private enterprises. Let us study the limitations as well as the principle.

Charging according to what the service is worth results in the two fundamental principles of classification and discrimination.[1] Classification is due to the fact that the same service has a varying value when rendered to different commodities. Discrimination (*i.e.*, local discrimination) is due to the fact that the same service has a varying value when rendered to different places. Whether the same service has a varying value for the freight of different persons, and may thus give rise to personal discriminations, is a question to be treated by itself.

Classification. Value of service influences classification in a double way: it puts the same articles into different classes; it puts different articles into different classes. It puts the same articles into different classes according to the methods of transportation, and makes a distinction between slow and fast delivery. With us this takes the form of freight and express traffic. Our general classification applies only to freight traffic. In Europe, where separate express companies are unknown, the rates are graduated according to this distinction — goods and parcels rates, *petite* and *grande vitesse*, *Frachtgut* and *Eilgut*. Such a classification is of course perfectly legitimate, whether from the standpoint of value or from that of cost of service. The better service benefits the goods and increases the expenses of the railway.

[1] The word discrimination is not always used in the same sense. Some use it to imply any variation from the cost of service, and make it include classification, which is to them a discrimination between articles as opposed to a discrimination between persons or places. But this is misleading. A classification as between two articles may be due to a difference in cost of service, in which case there would be no discrimination in the above sense. To make classification of this kind a part of discrimination is illogical. It is far preferable to separate the two terms completely, defining discrimination as is done on page 236.

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Far more important, however, is the classification of different articles into different categories. The primary element here again is value of service. Cost of service, indeed, influences classification to a minor extent in so far as the articles differ in bulk, shape, risk, direction, or regularity of shipment. By bulk is meant the proportion of dead to paying weight. One car may be filled with 2000 lbs. of baskets, another with 30,000 lbs. of iron or sand, and yet the cost of moving the cars may not appreciably differ. Manifestly, the charge per 100 lbs. on baskets should be higher than on iron or sand. The tare becomes an important factor of the cost. Actual computations again have demonstrated that the shape of the articles influences the cost, especially the terminal expenses, far more than might at first appear. The risk, when incurred by the railway, is also a legitimate ingredient of cost, and varies greatly with the nature of the article. The question of direction involves that of back-loading and affects articles differently on each particular line. Finally, some articles are sent intermittently in small lots, while others are shipped with great regularity and in such quantities that the railway can easily accommodate itself to the traffic. Every shipment has its own peculiarities, and it thus happens that articles of equal value may be put into different classes.

But actual rates are mainly fixed not by cost of service, but by what the service is worth. Classification depends only in a subordinate degree upon cost. The controlling element is value, not cost. Cheap goods must be charged less than dear goods although the cost of service may be greater. The main point is the development of the traffic. The goods must not be charged so high rates as to render their transportation impossible or unprofitable. We must keep in mind the distinction between the fixed and the variable expenses. If the freight can be secured at rates which will more than cover the variable expenses, — the actual hauling and a proportionate part of the station expenses, — it will pay the road to take this freight, because an addition, however small, is thereby made to the fixed expenses. These would have to be met at all events, whether

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that particular freight were taken or not. A small contribution to fixed expenses is better than none at all. The choice is between freight at a rate slightly above mere cost of operation, and no freight. Yet to apply this low rate to all commodities would of course render it impossible to meet the fixed expenses or earn profits. In other words, it is profitable for a railway to transport certain classes of freight at rates which if extended to all business would ruin the company. Classification of freight is not only necessary, but justifiable and beneficial. The meagre surplus over hauling expenses in the cheap goods contributes, if ever so little, to the fixed expenses, and diminishes to this extent the amount which it is necessary to raise from the remaining traffic. The higher-class goods can be transported at rates which are lower than would otherwise be the case. If we had no classification, not only would we not have cheap wheat or cheap meat, but the charges on all the other articles would be raised per ton-mile. It reduces the rates on the cheap goods immensely, and the rate on the dear goods moderately. Classification is based, in the main, on the principle of value of service. An advance of ten cents per hundred pounds on coal would soon make its influence felt, and might double or treble its value; a similar advance on silks or dry goods would exert but an inappreciable influence on their value.[1] The same rate which would prohibit the transportation of one commodity may scarcely be felt by another. The principle of classification is the first corollary from the distinction between fixed and variable expenditures.

To uphold the legitimacy and necessity of classification is, however, quite another thing from maintaining the justifiability of all actual tariffs or from attempting to palliate undeniable abuses. The early roads started with but little classification. The first English charters indeed contained statutory maxima for a number of articles. The Stockton and Darlington Railway act prescribed three classes, the Liverpool and Manchester

[1] Articles are thus classified primarily and chiefly according to their value; but the classification is modified by the tare, *i.e.*, proportion of dead to paying weight, and in exceptional instances by the other considerations of cost.

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act five classes.[1] These were based chiefly on the old canal acts. In the United States very few of the state charters fixed either maxima or classification.[2] The result was a very simple system. It was found, however, that a gradual modification and differentiation of the charges conduced not only to a development of the traffic, but also to a growth of business prosperity. But the matter of classification with us to-day is in a well-nigh chaotic state. It is made to depend on the numberless exigencies and conditions of business life. It is lacking in uniformity, in stability, and very often in justice. The tariffs of the present day on our main lines are a great advance upon those of several years ago, but there is still enormous ground for improvement. The point to be noticed is that these wide powers of fixing the classes are put in the hands of private individuals as sole arbiters. While the principle of classification is perfectly just, the liability to abuse of the principle arises from the fact that the authority is given to only one of the parties in interest. It is this which arouses the indignation of the public and emphasizes the necessity of public control.

But we must be careful not to let our indignation carry us too far. The abuses of classification are on the whole the lesser abuses of railway management. They take place only within narrow limits, because it is the interest of the railway manager to charge those rates which tend to develop the traffic. Exorbitant charges for any class will lead to decreased shipments. Mistakes may be made, but when the railway is honestly managed the mistakes will be rectified. The great advantage of the traffic associations or pools is that they minimize the danger of dishonest management in any single road, and bring about a greater uniformity and stability. The dressed-beef controversy is a case in point.[3] We do not

[1] Some of the earliest toll and maximum rate clauses are reprinted in Grierson, Railway Rates (1886), pp. lxv–lxxii. Also, more fully, in Report of Select Committee on Railways (1881), part ii, app. no. 55.

[2] For a good collection of the earliest charters, see Gme Tell Poussin, Chemins de fer américains (1836), pp. 211–271. See also W. P. Gregg and B. Pond, The Railroad Laws and Charters of the United States. (Boston, 1851.)

[3] See Proceedings and Circulars of the Joint Executive Committee, Freight De-

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imply, with many of our eloquent railway officials, that there is a necessary identity of interests between the railways and the people. Our past history unfortunately does not bear this out. It would be absurd to depend on this imagined harmony as a remedy for actual abuses. But it is equally foolish to go to the other extreme with popular demagogues. Classification should indeed be supervised by public authorities, but the demand for a rigid law prescribing all details, would impute to our legislators a knowledge which they cannot possess. And those who advocate state management in the United States forget to think of the havoc that would be created by the simple political influence of our law-makers. A congressman represents a district noted for the production or manufacture of certain articles; what more simple method of appeasing the clamor of his constituents than by changing the article in question from class 3 to class 4? Were the state to own the railways under our actual political system, the claims upon our legislators for spoils would be increased a thousand-fold. To cure the abuses of classification by letting our congressmen fix the classification would indeed be jumping from the frying-pan into the fire.

An escape from the dilemma seems to be outlined in the principle of advisory boards or consultative councils akin to those lately instituted in Europe. The German local councils[1] are elected by the chambers of commerce and agriculture, and it is incumbent on the railway officials to consult with them on all important questions affecting the tariffs. True, the decision lies ultimately in the hands of the railway authorities, but these are public, administrative officials. The system has worked admirably. In Italy, where the law of 1885 has prescribed eight uniform classes for all the lines, a council with subordinate divisions composed of railway and state officials as well as representatives of commercial interests

partment, for 1884, (N. Y. 1885,) pp. 90–95, 161, *etc.* *Cf.* also the recent unification of east and west bound trunk-line tariffs to six classes, in place of four and thirteen.

[1] Bezirks-Eisenbahnräthe.

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supervise the actual charges.[1] In France, where nothing similar exists, notwithstanding the ministerial *homologation* or approval of rates, the state is still struggling with the railways in the endeavor to bring about a simplified classification. England's condition is almost as chaotic as ours.[2] Of the attempt to suppress all abuses of classification by the heroic step of abolishing or restricting classification itself, as in the compromise or car-space system of central Europe, we shall have more to say later on. Classification *per se* is legitimate.

As opposed to classification a *discrimination* may be defined as an inequality in the charge for hauling a like quantity of similar articles for an equal distance in the same manner. The definition includes four points. The quantity, the articles, the distance, and the manner of transportation must be the same.[3] If a railway charges in one case one cent per ton-mile for wood between Hartford and New York, and in another case two cents, this is a discrimination. It may take place because two different persons sent it from Hartford or because in the one case the wood was shipped at Hartford and in the other at Boston. All discrimination is hence either personal or local. A personal discrimination is called a preferential rate; a local discrimination is called a differential rate.[4] Let us analyze each.

[1] Consiglio per l' esame delle tariffe ferroviarie.

[2] Lord Stanley's bill of 1887, § 24, like Mundella's bill of 1886, provides for a revision of the classification by the Board of Trade, to be ultimately enforced by law. This is a step in advance, — perhaps too great a step.

[3] To haul one ton for 2 cents and two tons for 4 cents; to haul coal for 2 cents and wood for 4 cents; to haul coal one mile for 2 cents and two miles for 4 cents; to haul wood for 2 cents by slow freight and for 4 cents by fast freight or express, is thus no discrimination. In each case one of the four elements of the definition is lacking.

Hadley, Railroad Transportation (1885), p. 108, defines discrimination as a difference in rates not based on corresponding difference in cost. This is manifestly incorrect. The cost of service per ton-mile from A to B may be 1¼ cents, from A to C, a station further on, only 1 cent (since cost decreases with distance). This difference in charges to B and C is a discrimination against B, although based on a corresponding difference in cost. It may be a valid discrimination, but it is a discrimination, and is everywhere regarded as such. The same holds true of personal discriminations, which may sometimes be proportional to cost of service. Then, again, Professor Hadley makes discrimination include classification. But, as we have seen, classification may be partly based on cost of service.

[4] This nomenclature, although exact, is not always followed. It is used in the

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Personal discrimination. Differences in rates based on classification we found to be essentially legitimate. It is difficult, however, to find any principle on which to base distinctions between two or more shippers for a similar service. Personal discriminations are beyond cavil the most flagitious abuses of arbitrary railway management. Concessions made to large shippers do not, up to a certain point, come within this general condemnation. Allowance for quantity or making a distinction, *e.g.*, between car-loads and less than car-loads is within certain limits defensible, and is practised in some shape in every country. But this is really a matter of classification, and may be upheld by the advocates of cost of service in the same way that classification into slow freight and express is defended. A well-filled car costs undeniably less in proportion than a half-filled car. But the difficulty is to select the unit of classification above which the rates shall be the same for all persons. Shall it be the pound, hundredweight, ton, or car-load; or shall there be no unit at all? No country has as yet adopted the pound as a unit. In England we have the "smalls" carried at lower rates, and other distinctions made in the mineral and special classes. With us the common unit is the hundredweight, because of the diversity of our car-loads, which vary from 20,000 to 60,000 lbs. The classification, however, generally specifies the minimum weight which entitles to car-load rates. Distinctions between ordinary and car-loads are everywhere permitted, and one of the fundamental principles of the "natural" and "reform" tariffs in Germany is that rates should differ with the quantities of freight (up to ten tons). Of course it costs

English Select Com. (1881) Evid. qu. 13302. Some make "differential" rates cover all discriminations, so that a preferential rate would be a differential rate. Others again call all discriminations preferential rates. But this is confusing. In the United States "differential" rate is sometimes used in a peculiar sense. The rate from Chicago to New York, *e.g.*, is taken as a basis. A certain number of cents are added to or subtracted from this rate for all stations west or east of Chicago. These variations are termed *differentials* and are based to some extent on distance. The effect of these "differentials" is thus to attain an approximate equality of charge per ton-mile, while a differential rate as commonly understood in European practice and in scientific works all over the world amounts simply to a discriminating rate or an absence of equality of charge. The latter method is more logical and scientific.

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less to transport car-loads than single lots, but that is due only to the amount of the tare. If the single lots are packed closely, so as to fill the car, their dead weight would be greatly diminished. At all events it is almost impossible to fix the exact difference of cost, and in very few instances do the differences in cost warrant the actual discriminations.[1] So that, even if we adopt the principle of cost of service, the distinction between car-loads and smaller shipments is only partially justifiable and may often work injustice to the small shipper. The attempt, however, to make the pound the unit of shipment would still be premature, although it may be the ultimate outcome of the controversy. Allowance for quantity below a moderate limit excites but little complaint and increases the efficiency of the railway.

But if this comparatively unimportant difference — which is in reality a species of classification — be in itself only partially justifiable, what shall we say of those vastly greater discriminations which cannot even claim cost of service as an ostensible reason? Such a practice is indefensible on any theory whatsoever. To build up one man's business at the expense of another can never be acknowledged a legitimate function of the common carriers. To give this power to private corporations would be to strike at the root of commercial prosperity. Such discriminations are sometimes defended on the plea of allowance for quantity. But allowance for quantity not based on cost of service is robbed of all pretext for existence. Whether a train-load is hauled for one shipper to one consignee, or for ten shippers to ten consignees at the same point makes very little difference in expense to the carrier. Furthermore, the matter rarely arises in this way. In almost every case of concessions to large shippers but few cars are in fact forwarded at a time. The favored shipper's freight is hauled in the same manner as that of his competitors, and the special rates are granted only because of the contract to forward a larger number of cars per

[1] See a typical case of rates on base-ball bats to Council Bluffs, where the difference between ordinary and car-load rates amounted to 157 per cent, thus crowding out the small shippers. Cullom Committee Report, Test. (Wicker), p. 759.

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month or year.[1] The cost to the railway is not appreciably smaller, but the advantage to the large shipper is obvious. The special rates enable him to control the market, the control of the market secures him the special rates. It is a see-saw working both ways. Allowance for quantity of this kind can hence not be justified even in the partial way that the distinction between car-loads and ordinary freight can be upheld. The cost of service principle cannot be invoked.

Reduced to this extremity, the advocates of personal discrimination are wont to assert that a business firm makes wholesale rates less than retail and gives special figures perhaps to every customer. Why is not the same principle, they ask, applicable to the railroad business? They utterly fail to perceive that a railway is not simply a business corporation, but something far more; that it is a public trust and forms to-day our public highway; that a merchant is not bound to treat his customers equally and may favor his friends without violating any law of business ethics, but that a railway is a body of delegated powers; that it exercises public functions, is invested with public rights, and therefore has public duties. This is the important qualification of the principle that the question of railway rates is a mere commercial question. To make concessions for large shipments is to arrogate powers of wide-reaching potency; it is a claim which cannot be acquiesced in or defended. The wholesale principle or allowance for quantity when carried to this extreme becomes utterly untenable.[2] And

[1] Cullom Committee Report, p. 191.

[2] The report of the Hepburn committee is thus open to question: "The principle of wholesale rates enters as legitimately into railroad carriage as into any private business." But this is qualified by the clause: "Where additional quantity ceases to lessen cost of carriage, or be of pecuniary advantage to the road, the differences should cease." Report, p. 65.

An interesting discussion of the principle of wholesale rates as applied to jobbers and retailers may be found in the report of the Iowa commissioners, an exceedingly able body. The celebrated case is Merrill & Keeney *vs.* Chic. & N. W. &c. See Report, 1883, pp. 678–686, and further discussion in Report, 1884, pp. 71–77: The commissioners go too far in the defence of the wholesale principle and err in making classification and differential rates depend upon this principle. They depend on the contrary on the distinction between fixed and variable expenses. Only in so far as allowance for quantity depends on cost of service, is it legitimate. The wholesale

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the claim is in fact no longer upheld by our best railroad men.[1] But although no longer theoretically defended, such discriminations are still actually practised. Not only concessions to large shippers, but what is worse, personal discriminations resting on no other basis but pure favoritism, are yet of common occurrence. The revelations of the New York assembly investigation of 1879 are fresh in the minds of all. A great improvement has indeed taken place in the eastern lines, but secret rebates or substantially similar favors are by no means a thing of the past.[2]

Personal discriminations then cannot be defended upon any theory of railway rates. They must be stopped at all hazards. But how? The common law forbids them, but the inhibition of the common law has been of little efficacy. The fear of incurring the displeasure of the railways has acted as a serious check to the institution of suits. To rely on free competition as a panacea is absurd. Personal discriminations are most glaring when competition is most active. Cut-rates and rebates are never so common as during the railway wars. The surest method of preventing personal discriminations is just the opposite, *i.e.*, universal combination or monopoly, in other words state ownership. This in fact was one great reason why the

principle *per se* is not applicable to railroads. *Cf.* Test. of Manager Haines, Cullom Com. Rep., App. p. 143. Notwithstanding the report of the Iowa board, the distinction between jobbers and retailers was abandoned. Of late there has been a movement to abolish even car-load rates. But the arguments of the board have thus far prevented it. Report, 1885, pp. 45–53; 1886, pp. 31–46. From the railway standpoint the wholesale principle is indeed a "fundamental truth," as the commission says; but from the public standpoint the "fundamental truth" vanishes. Railway profits, as we shall see, are no excuse for inequality of charge.

[1] *Cf.* Fink in Hepburn Com. Rep. Exhibits, p. 149, and The Railroad Problem and its Solution (1883), pp. 10, 41.— *Cf.* Cullom Com. Rep., Test. of Blanchard, p. 159; Firth, p. 466; Furber, p. 333; Kimball, p. 1238; Mink, p. 437, Wistar, p. 516. [The only two exceptions are Ackerman, p. 604, and Meek, p. 1049.] Also Jewett and Vanderbilt in Hepburn Com. Rep., Test., pp. 1481 and 130. So Alexander, Railway Practice (1887) pp. 21, 59.

[2] *Cf.* the testimony of a railway official: "I have been doing it myself for years, and had to do it." Referring to the effort to get the business of a number of millers from another company, he adds: "I can accomplish my purpose better by picking out one good, smart, live man and giving him a concession; . . . let him go there and scoop the business. I get the tonnage, and that is what I want. . . . You can take hold of one man and build him up at the expense of the others, and the railway will get the tonnage." Cullom Rep., Test. (Wicker), p. 778.

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railways were bought up by the Prussian government.[1] But state ownership is out of the question at present in the United States. With our actual political conditions and our unreformed civil service, the abuses would be intensified, not lessened. There are only three methods, or combinations of methods, which can settle the question, — judicial regulation, legislative and administrative regulation, development of the pooling policy. The history and merits of each, as well as the method pursued in the Interstate Commerce law, may be left to the following essay. But preferential rates cannot in any sense be upheld as a corollary of the principle of value.

Local discrimination. Quite different from preferential rates are differential rates. Differential rates may arise in two ways: through the desire of the railway to develop its traffic, or through the action of competitive centres. The road may wish to extend its traffic in commodities coming from a distance. If they are to be carried at all, they must be transported at less than the regular rates. A commodity which comes from a point a thousand miles distant cannot afford to pay the same rate per mile as one which comes ten miles. The traffic will not bear it. To charge the same rate per mile from Kansas to New York as from New Jersey to New York would simply put a stop to the Kansas traffic. Hence arises the necessity of a distinction between local and through rates. Goods coming from a distance must be treated in the same manner as cheap goods. Local discrimination is like classification. The distant freight is the cheap freight, the near freight is the dear freight. The underlying principle again is value of service. The act of transportation adds far more to the value of the distant than to that of the near freight. Annihilation of distance is proportionate increase of value.

But secondly, local discriminations may arise from competition in the centres of traffic, whether the competition be due to railways or waterways. Two lines meet, *e.g.*, in Buffalo. The old line wishes to retain its business, the new line wishes to

[1] *Cf.* the argument for state railroad ownership (a translation of a Prussian parliamentary document of 1879), New York, 1880, pp. 43 *et seq.*

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develop a new business. Rates from Buffalo to New York will immediately fall, and the competition may be carried so far as to reduce rates to or below the level of mere transportation expenses. Local rates may remain unaffected. The result will be a disproportionately small charge to the point of competition. The number of competitive centres in the United States is immense,[1] the quantity of local discriminations is hence correspondingly large. A lower rate to the competitive centre is the sole condition of the retention of the competitive traffic. Increase of charges means a destruction of the business.[2]

From the standpoint of the railway, therefore, the principle of differential rates is beneficial. It is due in the last instance to the distinction between fixed and variable expenses. Any rate on the through business above mere operating expenses is *pro tanto* profitable. The surplus goes to defray the fixed expenses. Rather than not get the traffic at all, the railway will take it at reduced rates, and yet these reduced rates if applied to all business would be ruinously unprofitable. The charge per mile on the longer haul may be less than the charge per mile on the shorter haul. How much less it may be is of no concern to the railway, as long as operating expenses are paid. The only endeavor is to retain and extend the traffic.

From the standpoint of the public the principle of differential rates is also justifiable — as a principle. The element of competition would in itself not be a valid justification. Whether the freight is carried by one route or another, *ceteris paribus*, makes no difference to the shipper, except indeed that public interest might oppose competition of foreign railways. But the long-haul consideration is of vital importance to the public. It becomes the question of having the goods transported at the lower rates, or not having them transported at all. The industrial progress of the nineteenth century is due to cheapened methods of production. Whatever tends to reduce

[1] In 1886, of the 33,694 railway stations in the United States, 2778 were junction points. Chief of Bureau of Statistics quoted in Congressional Record, Jan. 12, 1887, p. 562.

[2] *Cf.* Michaelis, Die Differentialtarife der Eisenbahnen, Bd. I. (1873); Boinvilliers, Des transports à prix réduits sur les chemins de fer (1878).

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the cost of transportation and to eliminate the element of distance in so far increases national prosperity. Only under a system of differential rates does this development become possible. Without local discriminations the growth of our country would be set back many decades. They form an indispensable condition of national prosperity.

The legitimacy of the principle of differential rates may be inferred from considering the effects of their abolition. The opposite of a differential rate, *i.e.*, a different charge per mile, is an equal mileage or *pro rata* rate, *i.e.*, the same charge per mile. We pass over the absurd inconsistency of those who in the same breath advocate cost of service and *pro rata* charges. One of the plainest principles of railway economics is that cost of service becomes relatively less as the distance traversed becomes greater. To transport an article twenty miles does not cost twice as much as to transport it ten miles. Only a portion of the expense increases with the distance. The greater part is independent of distance, so that the cost of service diminishes with every additional mile. The separation of terminal charges, which are of course utterly irrespective of the distance traversed, from pure hauling expenses, would diminish, but by no means remove the objection. Hence to base equal mileage rates on the principle of cost of service is illogical. Even according to the doctrine of cost, differential rates are perfectly legitimate. Rates absolutely proportional to cost of service would be differential rates.[1]

But omitting the question of logic, what would be the effect of *pro rata* charges? Here both theory and practice come to our aid. The theoretical conclusions have been well formulated in various governmental commissions, the practical illustrations have been afforded by the working of our Granger laws and, in a greatly modified extent, by the experience of some European railways. Nowhere, perhaps, has the matter been more tersely put than by the English parliamentary committee of 1872:[2]

[1] This has led to the sliding scale and zone systems — mileage rates decreasing with distance — in various parts of Europe, and even in the United States.

[2] Joint Select Committee on Railway Cos. Amalgamation, 1872, Rep., p. xxxii,

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(*a*) It would prevent railway companies from lowering their fares and rates, so as to compete with traffic by sea, by canal, or by a shorter or otherwise cheaper railway, and would thus deprive the public of the benefit of competition, and the company of a legitimate source of profit.

(*b*) It would prevent railway companies from making perfectly fair arrangements for carrying at a lower rate than usual goods brought in larger and constant quantities, or for carrying for long distances at a lower rate than for short distances.

(*c*) It would compel a company to carry for the same rate over a line which has been very expensive in construction, or which, from gradients or otherwise, is very expensive in working, at the same rate at which it carries over less expensive lines.

In short, to impose equal mileage on the companies would be to deprive the public of the benefit of much of the competition which now exists or has existed, to raise the charges on the public in many cases where the companies now find it to their interest to lower them, and to perpetuate monopolies in carriage, trade, and manufactures, in favor of those rates and places which are nearest or least expensive, where the varying charges of the companies now create competition.

In like manner, the New York commission concludes, after a comprehensive review of the whole subject, that *pro rata* charges are absolutely injudicious and impracticable.[1] The Senate committee of 1886 does not even consider the proposition worth a separate discussion. The late French and Italian commissions hold the same views.[2] American experience is no less emphatic. The first Granger law, enacted in Michigan in 1871, prescribed equal mileage rates — with a slight modification for short distances. Even as changed by the law of 1873 these rates were so utterly impracticable that they were disregarded by the railways with the tacit consent of the people. The com-

where the conclusions of the Royal Commissions of 1865 are simply re-formulated. The Select Committee of 1882 reprints the conclusions and discusses them at length. Report, pp. ix *et seq.*

[1] Report of the Board of Railroad Commissioners on the *pro rata* bill (1884), p. 125. Also the annual report for 1884, App. 63. *Pro rata* laws are described as "straight-jackets, preventing perhaps some positive evil, but dulling the energy and cramping the development of business. They hamper legitimate efforts at expansion."

[2] "È altresì un fatto incontestabile che il sistema delle tariffe differenziali ha contribuito a rendere più forti e migliori le industrie nazionali," *etc.* Atti della Commissione d'Inchiesta (1881), Riassunto, II, 832. For France see the report translated in the English Select Com. Rep. (1882), App., especially p. 450.

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missioner pronounced the duties imposed upon him impossible of accomplishment.[1] The fixed-distance tariff of Iowa, according to the law of 1874, proved to be so unequal and unjust in its operation that it was repealed shortly after.[2] The results of the Potter law of 1874, in Wisconsin, and of similar enactments in Minnesota and Illinois, were equally convincing. They proved to be rather a burden than a relief. The demand for equal mileage rates is an emanation of crude ideas; the outcome of a laudable demand for equality, which would in actual practice result in glaring inequality and in an abandonment of the greatest benefits conferred by railroad transportation. Differential rates or local discriminations form a necessary part of all railway management.[3] They constitute the second corollary from the distinction between fixed and variable expenditures.

The principle of value of service may thus be analyzed into the two constituent elements of classification and local discrimination. But now the question arises: Is value of service indeed a just basis for railway charges? Should not cost of service be preferred? We leave the domain of practicability and come to the field of justice.

Let us first ascertain whether the value-of-service principle is indeed so novel in transportation charges as the anti-monopoly league and others maintain. This assertion may be categorically denied. The old turnpike tolls in England, as in America, whether for vehicles or animals, were not the same for all, but were divided into different categories. The English turnpike acts fixed higher rates for coaches than for dray wagons; according to the doctrine of cost of service they should have done the opposite. In France the charges on the highways varied not only from road to road, but frequently from day to day, keeping pace with the intensity of the traffic.[4] The charges on the canals again were nowhere based on cost of service; not only were differences of charge made according to the value of the

[1] Cullom Committee Rep., p. 109.
[2] Eighth Report of Iowa Board of R. R. Commissioners (1885), p. 35.
[3] *Cf.* Aucoc, Les tarif des chemins de fer (1880), p. 43.
[4] De Foville, Transformation des moyens de transport (1880), p. 63.

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commodities transported, as on the American and English canals, but in many instances differential rates were charged, although no one thought of opposing them in principle.[1] So the earliest railway acts were based unconsciously on value of service. In the charter of the first English steam railway — the Stockton and Darlington — among other charges which deviate from cost of service we find that rates on coal destined for exportation are fixed at 4*d.* per ton-mile, but on all other coal at ½*d.* per ton-mile. Similar distinctions may be found in most of the early charters. In the United States these provisions were not so common, simply because there were very few charter-maxima for freight. But at all events these examples prove that the cost of service principle was by no means avowedly followed. What has been called, even in the official documents the "outrageous principle" or the "audacious plea" of value of service[2] is thus not a new departure. The principle is as old as the improved methods of transportation themselves.

Moreover, the value theory is not so opposed to the cost theory as is frequently imagined. We know that lower rates for cheap (or distant) goods increase the traffic and thus diminish the cost of service. The value of the articles thus affects traffic and cost. And since the reduction of rates for cheap goods leaves only a small surplus above operating expenses for fixed charges, while higher rates affect the dear (or near) goods very little, there is no valid reason why the latter should not be made to bear a proportionately larger share of the fixed charges. From the standpoint of justice no exception can be taken to the principle of value, even regarded as a product of the principle of cost.

But is the doctrine of cost of production itself universally applicable as the foundation of prices? What the railway produces is transportation; its cost of production is cost of service. It is claimed that the utilities produced by the railway, like all

[1] On the Pennsylvania canal there were 12 classes, the rate varying from 0.6 to 4 cents per ton-mile. For Europe, *cf.* Sax, Die Verkehrsmittel (1878), I, 180; Jacqmin, De l'exploitation des chemins de fer (1868), I, 368.

[2] Report of Mass. R. R. Com. (1885), p. 35. *Cf.* the minority view of English Select Com. of 1882, Rep., p. liv.

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utilities which are the subject of exchange, should be regulated by cost of production. This, it is asserted, is the only just law. But such a conclusion is of doubtful validity. Even granting that cost of production forms a just basis for prices, no one claims that actual business prices of each particular commodity vary with the cost. The application to railway rates is plain. The cost of service theory might logically demand that the sum total of charges should vary with the cost, but not that the price of each individual transaction should be fixed by its cost of service. Even were this practicable, — which we have seen is not the case, — it would not be theoretically defensible.

The principle of value of service has a firmer foundation. Railway charges cannot, indeed, be fixed like prices in general, simply by demand and supply. This is the mistake of the railway officials who attempt to justify all charges.[1] Railway transportation is more than a simple business; it is a semi-public occupation, a public trust. Hence the necessity of restricting the inequalities of every-day commercial practice. But to oppose the abuses of a principle is quite another thing from demurring to the principle itself. The value-of-service doctrine, correctly understood, simply applies the methods already followed in certain public relations. It fixes charges according to the ability to pay — the same principle that is recognized in taxation. Charging what the traffic will bear is a rough way of stating that the charges are proportioned to the capacity or ability of the articles that compose the traffic. It will not be questioned that the endeavors to develop traffic can be realized only by making lower charges for the cheaper (and distant) goods. But the element of justice is introduced as soon as we show that such a method graduates charges according to ability. Of course it does not follow that all rates actually charged are just rates. The inference simply is that the principle of value, as a principle, is not open to the objections often

[1] So de la Gournerie, Études économiques sur l'exploitation des chemins de fer (1880), pp. 118, 119; Grierson, Railway Rates (1886), p. 68; and most of the American writers.

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urged. The ability of an article to pay, its capacity to contribute to the payment of the expenses, is an undeniably valid basis for rates. As it is well expressed by the Cullom Committee:

> The capacity of each commodity to contribute to the payment of the fixed charges is measured by the extent to which the cost of its transportation fixes its market value and determines the question of its movement. In the case of commodities like coal, stone, ore, beef, corn, lumber, *etc.*, the freight charge constitutes the principal item of cost to the consumer; however small may be his contribution to the general burden, it is relatively greater than that made by the consumer of high-priced articles, such as clothing or dry goods, *e.g.*, the selling-price of which is not appreciably affected by the freight charges, even though unreasonably high.[1]

And what is true of the cheap goods is true of the distant goods. For the purposes of transportation they stand on precisely the same footing and are subject to the same conditions. The principle again applies equally well to passenger traffic. Even in the United States there are virtually different classes, and the higher fares for the better service may be upheld on the principle that the passengers in the higher class cars possess more ability to pay large fares than those in ordinary or emigrant cars. The value of service principle is based on supposed ability to pay.

But now the difficult question arises. We have shown that the low-priced wares possess less ability to pay than the high-priced wares. Does it follow that the more valuable wares, by reason of their greater ability to pay, should be charged higher rates than the average, or than would otherwise be the case, in order to compensate for the lower rates of the cheaper goods? Does the principle of value imply this compensating action, and is this principle of compensation valid and just? This is the puzzling question. To give a precise answer is not so simple as it might appear. We may, indeed, assert with decision that difference in value implies a difference in ability to pay, but it is rather arbitrary and hazardous to assert exactly what relation

[1] Report, p. 185.

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there is between value and ability. Shall an article of double the value pay twice the rate; and if not, why not? The difficulty, in fact, is exactly the same that is met with in the problems of taxation. One of the fundamental principles of equity in taxation is that contributors should pay taxes in proportion to their ability. A rich man ought to pay more than a poor man; the difficulty arises when we must determine exactly how much more he ought to pay. Is the difference of ability proportional to their property, or to their income, or to their expenses? Or, again, should the difference of ability be measured not by a proportional, but by a progressive, scale of taxation, — should there be a progressive property, or a progressive income, or a progressive expense tax, rather than a proportional tax? None of these questions can be declared definitely settled by the science of finance. The answers are necessarily vague because of the relativity in the test of ability.

Exactly the same considerations are applicable to railway tariffs. Difference in value implies difference in ability. The cheap articles possess less ability than the dear goods, and should thus pay lower rates. But to determine how much higher rates the others should pay is not a self-evident proposition. The question is a relative one, and the rates may vary within wide limits. It is precisely because the question is a relative one that the many abuses of railway management have arisen. This relativity, the possibility of making undue differences within the limits of the just principle, becomes therefore a strong argument in favor of some form of public regulation.[1] The unhampered railway management may pursue the correct policy of charging what they think the service is worth, but their opinions may vary within wide limits. There is, in other words, such a possible elasticity or flexibility in the methods of fixing the details that the actual charges may be far from adequately satisfying all demands. This fact above all others has earned for the doctrine of charging what the traffic will bear the deserved

[1] Cohn, Untersuchungen über die englische Eisenbahnpolitik, Bd. iii (1883), S. 84, concludes that the railways must therefore be owned and managed by the state. But such a conclusion is not at all necessary.

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epithet of "hap-hazard" estimate.[1] The doctrine of free competition and uncontrolled liberty does not follow from the principle of value of service as the foundation of railway tariffs.

But at all events one point has been gained. The principle of value, within these wide limits, is a principle which not only does determine railway tariffs, but which, although liable to abuse, is a correct principle. It is just because it is founded on the principle of ability. It is neither new nor "outrageous." It is not only a just principle, but, as we have seen, the only practicable principle. The cost of service doctrine can no longer put forth the exclusive claim of justice as the basis of railway tariffs.

One exaggeration, however, must be avoided. The principle of value, we said, implies the doctrine of compensation. But this does not imply that the higher charges on the dear goods or local traffic are higher than they would be if there were no lower charges on the cheap goods or through traffic. Were the rates on the cheap or long-distance traffic to be raised, it would not be transported at all; and since its contribution to the fixed expenses would fall away, the whole expense would necessarily be borne by the dear and short-distance traffic. The rates on the latter would have to be increased to make good for the loss of the former; the dear and local freight would pay even more than it pays now. Those who object to the principle of value because it unduly raises the charges on high-class and local business thus utterly fail to perceive that in many cases it produces just the contrary effect. The principle of value often lowers the rates on the dear goods, and renders possible the transportation of the cheap goods. It is the long-distance traffic which has enabled the American railways to reduce their charges, through as well as local, far below the level of European tariffs. *Pro rata* charges, or even rates based solely on cost of service, would give us tariffs much higher than those in actual use; they would level up, not level down.

Classification and differential rates are thus legitimate and necessary expedients: legitimate, because based on value; neces-

[1] Sir B. Samuelson, Report on Railway Goods Tariffs, *etc.* (1886), p. 20.

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sary, because without them railway transportation would become vastly less efficient. The same analysis would show the illegitimacy of personal discriminations, even in wholesale transactions. Classification and local discrimination reduce rates for the traffic which is less able to pay; personal discrimination reduces rates for the traffic which is better able to pay. Reduced rates to large shippers increase the advantages of the strong; rates fixed according to value tend to diminish the disadvantages of the weak. Preferential rates are wrong because not based on the principle of value; differential rates are right because following the doctrine of value. Preferential rates invert the considerations of ability; differential rates maintain the principle of ability.

But we must not be misunderstood. While the principle of charging what the traffic will bear is essentially just and legitimate from the railway standpoint, from the public standpoint it must be regarded as a subordinate principle. Value of service puts into the hands of the railways practically a power of taxation. It is indeed not entirely an arbitrary power, since the charges are partially regulated by water competition. But in its essence it is a power of taxation — a taxation often cunningly masked in the methods of classification and discrimination. From the public standpoint we maintain the great principle of equal treatment for all persons and all business. This is the general rule; the principle of value must be viewed as a legitimate qualification of the rule of equal treatment. But it must be shown in every particular case that the service *is* of varying value. From the public standpoint in other words the burden of proof must rest on the railways. Charging what the traffic will bear is just, but its application is so elastic that the justice must be demonstrated in each instance. To leave the application of the principle to the discretion of the railway results in the chaotic, almost barbaric, condition of actual charges during railway wars. The only rational method to reconcile public and private interests is to lay down the rule of equal treatment for all persons and places, and to admit the principle of value as a necessary infraction of the rule. But the necessity of the in-

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fraction must be shown before its legitimacy is accepted. The principle of differential rates is just; all differential rates are not just.

The question hence arises: How far are these differential rates allowable; to what extent should local discrimination be practised? We are confronted, in other words, by the problem of the long haul versus the short haul, the through traffic versus the local traffic. If we take a line with its two termini as competitive centres, and a third point intermediate between the two, and not subject to the same competition, we may have three principal forms of differential rates:

1. The rate per ton-mile from New York to Buffalo may be less than the rate per ton-mile from New York to Rochester, and yet the aggregate charge to Buffalo may be greater than the aggregate charge to Rochester.

2. The rate per ton-mile from New York to Buffalo may more than cover mere movement expenses, and yet be so much less than the rate per ton-mile from New York to Rochester that the aggregate charge to Buffalo may be slightly less than the aggregate charge to Rochester.

3. The rate per ton-mile from New York to Buffalo may be so low that it will not even cover actual movement expenses, and the aggregate charge to Buffalo will be considerably less than the aggregate charge to Rochester.

The third case occasions but little embarrassment. Such a practice manifestly cannot be defended even from the standpoint of sound railway practice. For new or through business, as we saw, any rate above the additional cost of the new business is a paying rate. It is defensible on the theory of value, because it contributes to the fixed expenses and thus diminishes the burden or rate on the old business. But if the rate falls below the expense of the additional business, it undoubtedly becomes a losing rate. It contributes nothing to fixed expenses, but actually requires an additional charge on the old business to make good the fixed expenses. The justification of differential rates thus entirely falls away. No theory of value

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can require one shipment to be charged unduly high rates in order to transport another shipment at less than actual cost. This would carry the principle of compensation beyond all reasonable bounds. The only possible exception from the railway standpoint would be to reduce rates temporarily below cost of service in order to build up a certain locality, and thus ultimately develop paying traffic. The present loss may create a future gain. But from the public standpoint this would be inadmissible. To raise local rates in order to decrease rates to competitive points below additional cost of the new business is theoretically indefensible. The minimum rate should never fall below the movement expenses. Any differential rate below this point is illegitimate, and, we may add, comparatively rare, because disastrous to the railway.

We come to the second case, where a higher aggregate charge is made for the short haul than for the long haul. At first blush such a practice seems a flagrant offence. We are tempted to exclaim: This inverts the natural order of things; it must be stopped at all hazards. But the matter is not quite so simple.

It is maintained that lower charges on short hauls remove the geographical advantages of localities, and since the termini of a road are generally larger cities, tend to unduly increase the advantages of the large as against the small places. The same argument, however, is applicable, although in a slighter degree, to any differential rates. They all discriminate against some localities in favor of others. For the purposes of the argument we may treat all differential rates together.

It may indeed be confessed that differential rates do sometimes remove geographical advantages. But it does not follow that such a practice is always reprehensible. There is no such thing at a natural, inviolable geographical advantage. There are no vested rights in situation. One town may be connected with the coast only by a turnpike; another town further distant may have the good fortune to see a railway built through its limits. Has the former any cause to complain because it is robbed of the benefits of its hitherto advantageous situation? A village ten miles distant from a metropolis has been supply-

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ing it with garden-produce. Is there any essential injustice in allowing villages forty or fifty miles distant from competing for the same market — a competition possible only through differential rates? In fact, the object of all improved means of transportation is to annihilate distance, to minimize the differences of situation. Maintenance of original differences of situation implies equal mileage rates. It would render impossible all but local business in the vast mass of commodities; it would again turn our western fields into barren wastes. Differential rates widen the field of supply; they increase the specialization of wants, and create the possibility of satisfying these wants, so characteristic of modern industrial society. Opposition to local discrimination arises from viewing solely the interests of the producer; rational economics lead us to consider also the consumer. Opposition to differential rates is based on the supposed welfare of a particular class or section of producers; a wise national economy will ponder over the interests of the whole community, over the prosperity of the entire country, irrespective of sectional jealousies. If differential rates are so arranged that distant producers are enabled to compete with local producers, the latter indeed may see their profits curtailed, but the former will see their profits increased, and the consuming public as a whole will evidently gain.[1] There is no absolute proprietary right in situation.

The charge, again, that differential rates increase the advantages of large cities may be admitted, but without any necessary imputation of injustice. It may be urged that differential rates do not at all differ from preferential rates; that all personal discriminations are wrong because they increase the advantages of the large shipper, and that all local discriminations are wrong because they increase the advantages of the large city. But such an analogy is essentially defective. Two or more shippers have a positive right to equal treatment. A common carrier must not assume the privilege of deciding between them. The common law and common justice demand

[1] *Cf.* the recent complaints of California producers and manufacturers at being shut out of Eastern markets by the operation of the Interstate Commerce act.

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equality of treatment for similar services. But in the case of localities there is no such indefeasible right. Differential rates which increase the advantages of large cities are due simply to the fact that these cities are competitive centres. The discrimination is the result of the competition. To avoid the discrimination, you must avert the competition, whether by rail or water. The building of an additional line temporarily increases the advantages of the terminus,[1] for every new railway alters in some degree the relative advantages of situation. The local points simply pay the penalty of not being competitive points, and to accord all local points the same benefits as competitive points would be to invert the normal development. Differential rates in such cases maintain the natural advantages of situation, while *pro rata* charges would here invert the geographical advantages. Equality between persons is rightfully demanded because the services are similar; equality between places is not always necessary, because the services are sometimes dissimilar. The ability of long-distance freight to bear the charges diminishes faster than the distance increases.[2] But of course this view does not justify all differential rates. The abuses have often been outrageous, the methods undeserving of palliation. Local interests have been disregarded, and the discriminations so conducted as to ruin whole businesses or towns in order to build up others. It is not necessary to ascribe illicit motives to the railway managers, although even such examples have not been wanting in our history. They

[1] Temporarily, *i.e.*, until some combination is effected between the rival lines; and such a combination is sure to ensue in the shape of a pool, an arrangement, or a consolidation. If there is water or foreign competition, the effect may be permanent instead of temporary.

[2] The English courts at first interpreted Cardwell's Traffic act of 1854 in the above sense. The clause reads: "No company shall make or give any undue or unreasonable preference or advantage to, or in favor of, any particular person or company, or any particular description of traffic in any respect whatsoever." The courts held that this demand for equality of treatment applies only to persons; but that nothing prevents the railways from favoring one class of traders, or one town, or one portion of their traffic, provided the conditions are the same for all persons, and for the benefit of the railway. See the decisions in Shelford, Law of Railways (4th ed.), I, 166–174. *Cf.* also the English Parliamentary Report for 1872 (Joint Select Committee on Railway Companies Amalgamation), p. xiii.

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have often been forced into unjust discrimination by the stress of competition and the instinct of self-preservation. But railway officials commit a great mistake in calling all local discriminations just because they are the effect of competition, precisely as the demagogues err in opposing undeniably valid discriminations and at the same time upholding competition. Competition is made to cover a multitude of sins. From the standpoint of railway profits, all actual differential rates, unless where railways carry at less than hauling expenses, may indeed be defensible; but from the public standpoint of national prosperity and the equable development of all sections, many of them may easily be convicted of injustice.[1] Railway profits and public interests do not always go hand in hand. The possible diversity of interest renders some form of governmental supervision absolutely imperative. Untrammelled liberty has been tried in the balance and found wanting. Private actions which so materially affect public interests must be subject to review and correction at the hands of some public authority.

The main limitation on the practice of differential rates hitherto has been the enactment of short-haul laws.

The short-haul system admits differential rates, but prescribes that the aggregate charge to any intermediate point shall not exceed the aggregate charge to the final point; the entire distance must never be charged less than any part of it. As a principle, it is in itself legitimate. It tends to check the undue extension of the practice of differential rates. For although, as we have seen, there is no vested interest in geographical advantages, it becomes an anomaly to charge to a way-station the rate

[1] Thus Alexander, Railway Practice (1887), p. 14, says: "The competition which gives birth to such discriminations determines also their sizes, or the extent to which they must go. What are the rates to intermediate points has nothing to do with the case." Expressed in this general way, the principle is manifestly indefensible, for it would justify transportation to competitive centres at less than actual hauling expenses. It must be remembered that railway profits are no excuse for injustice to the public. So Fink, Argument before Senate Committee on the Reagan Bill (1879), p. 20, claims that competition would justify a charge of $1.50 a ton from A to B, and of $3.00 from A to an intermediate point, C. It is these exaggerated claims that arouse the ire of the public. For the claims of the railway antagonists in England, see Pope, Railway Rates and Radical Rule (1884).

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to a competing point further on, plus the additional rate from the competing point back to the way-station. This amounts, in fact, to making an extra charge for *not* transporting the goods to a more distant place.[1] Put in this way, the hardship is apparent. As a general rule, the short-haul principle should be followed.

But a categorical and absolute prohibition of charging more for the short-haul would be of dubious value. If the law could be applied to all media of transportation, waterways as well as railways, foreign as well as home railways, then the matter would be simplified. But as long as such competition exists, the anomalies cannot be entirely removed. The attempt to do so by law would simply decrease the profits of the railway without improving the condition of the public. New York and New Orleans are connected by water as well as by rail. The railway charges cannot exceed the water rates by more than a definite amount, even though such charges only give a slight profit above movement expenses, and by no means cover the total cost of service. The charges to New Orleans are less than to an intermediate point, X. What would be the effect of a short-haul law? Rates to X would be lowered, or New Orleans rates would be increased. If rates to X are lowered, the profits of the railway will be seriously curtailed, and it is questionable whether it could defray its expenses at all. The railway will hence far prefer to raise the New Orleans rates, as on the whole less injurious. If New Orleans rates are raised, the water lines will take all the traffic, and the rates to X will have to be increased still more. For the railway will now have no New Orleans business to contribute to its fixed expenses, and will have to meet these by the proceeds of the local business alone. The local discrimination would hence be increased, for actual rates to New Orleans by water remain as before. No one will gain except the steamship company.

What is true of New Orleans is true of all points subject to water competition, or influenced through their connection by water competition. The same considerations apply to the com-

[1] *Cf.* Adams, Railroads, their Origin and Problems (1879), p. 124.

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petition of foreign railways. A short-haul law applicable to the United States but not to Canada would simply transfer the profits of the American railways to the Canadian, without decreasing the local discriminations.

Here again the principle is correct, but the exact application a matter of difficulty. It is a conflict between railway profits and impartial justice. If the short-haul principle in any given case decreases profits, but not to such an extent as to virtually ruin or handicap the railway, then it may safely be applied. In many cases the lowering of local rates would not have this baneful result, for the reason that the main traffic of the railway is the through traffic. This explains why many railways are now reducing their local charges. The short-haul principle will not materially affect their earnings. But in many other cases the above examples will hold good. The through rates will have to be advanced, and the railways will suffer without any benefits to the public, or, in fact, to any one but the rival transportation agencies. Both railway officials and railway antagonists are hence wrong. The demagogues are wrong because they fail to see the limitations of the short-haul principle; the railway officials are wrong because they set forth competition as a reason for all existing infractions of the principle. Competition becomes a valid reason only where the short-haul system implies a necessary choice between ruinous curtailment of profits and complete loss of the business. The limit is an elastic one, and precisely on this account do we need some public authority to define the justice of the limit in each particular case. But an inflexible law, enforcing the short-haul principle in all cases, would be neither wise nor successful.

Prior to the enactment of the Interstate Commerce act, several states already had short-haul laws on the statute books. According to the Commutation of Tonnage act of 1861, a contract between the state of Pennsylvania and the Pennsylvania Railroad Company, the short-haul provision was agreed to. But neither this agreement nor the law of 1883, which incorporated the same principle, was ever thoroughly carried out.[1] The

[1] *Cf.* the testimony of Pennsylvania shippers in Cullom Rep., Test. (Norris), pp. 530–535, (Welsh) p. 460, (Wood) pp. 478–480, *etc.*

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Granger movement of 1870–1875 resulted in the passage of very stringent laws in the Western States, some of them being virtually *pro rata* laws. Many of the specifically short-haul laws, as that of 1873 in Ohio, remained dead letters, while the more stringent laws, which absolutely fixed rates or empowered the commissioners to fix rates, were enforced so literally as to produce a revulsion in public feeling and a speedy repeal of the laws.[1] The same is true of the more recent short-haul laws in the North-west, as, *e.g.*, the Doane law of 1881 in Nebraska. The railways enforced it so strictly by raising local rates that the public began to regard it as a burden, not a relief. As a result, the law is now practically a dead letter.[2] Several of these laws were, however, something more than mere short-haul laws. They provided, in general, that a shorter distance should not be charged more than a longer distance on the same line, while according to a true short-haul law the shorter distance must be included within the longer distance. This distinction was well expressed in the Massachusetts law of 1874, which reads as follows:

> No railroad corporation shall charge or receive for the transportation of freight to any station on its road a greater sum than is at the time charged or received for the transportation of the like class and quantity of freight *from the same original point of departure* to a station at a greater distance on its road *in the same direction*.[3]

But this law, as the phraseology denotes, applies only to hauls from a terminus to the way-stations. It does not apply in the other direction, *i.e.*, from the way-stations to the terminus. Possibly on this account, but probably because of the smaller degree of competitive traffic in the state, it has been found possible to enforce the law strictly.[4]

The New York commission made a careful study of the principle in 1884. Their conclusion is expressed in these words:[5]

[1] So in Wisconsin, Iowa, Michigan, Minnesota.

[2] Cullom Committee Report, Test. (Rosewater), pp. 1133–34.

[3] Public Statutes, chap. 112, § 190.

[4] Railroad Commissioners' Report, 1885, and 1886, p. 35, *in re* Housatonic Railroad Co. See also Cullom Rep., Test. (Russell), p. 305.

[5] Report on the *pro rata* bill (1884), p. 120.

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Railroads should not as a general rule charge more between a terminal and an intermediate point, for a like class and quantity of freight, than is charged between such terminal and a more distant point, even though at such more distant point there may be railroad or water competition, unless railroads can affirmatively establish such circumstances governing such competition as justify the higher charge for the shorter distance.

This is a conservative and judicious conclusion, which shuts out on the one hand the extravagant claims of the railway officials, and on the other the short-sighted demands of the professional reformers. Each case must be judged on its own merits. Thus in Moon *vs.* The New York, Ontario and Western,[1] competition with a rival railway was held not sufficient to justify the infraction of the principle. In Foot *et al. vs.* The Utica and Black River,[2] it was held that higher charges might sometimes be made to intermediate points, but that the peculiar circumstances were not sufficient in this case. In Harding and Hollis *vs.* Rome, Watertown, and Oswego,[3] water competition, which would have given the business to foreign companies, was held to be a valid reason for the infraction of the rule. The short-haul principle as administered in New York is thus no hard and fast rule.

European experience all tends to the same result. In France the short-haul principle is known as the *clause des stations non denommées*, and has been in force since 1864. The railway tariffs must be submitted to the administration, and in virtue of this power of approval or *homologation*, the government has procured the insertion and maintenance of the short-haul principle.[4] But this is applicable only to the general tariffs, and is perfectly enforceable there because of the almost utter absence of interior competition — a fact due to the existence of territorialization or division of the field among the separate companies. The principle is not applicable to any case where

[1] N. Y. Railroad Commissioners' Report (1885), pp. 73–76.

[2] Report (1884), pp. 94–131, especially pp. 106 and 119.

[3] Report (1884), p. 160.

[4] Aucoc, Conférences sur le droit administratif (2me éd., 1882), III, 748. *Cf.* Picard, Chemins de fer français (1885), II, 444; III, 587.

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there is any danger of foreign competition. The *tarifs de transit*, or through tariffs for goods passing through France on the way to another state, and the *tarifs d'exportation*, or through rates for goods destined for exportation, are exempted from the application of the principle, so that greater charges are permitted to intermediate points. This, it must be remembered, is allowed by public authority and in the public interest.[1]

In Germany, where the railways are almost exclusively owned by the state governments, and interior competition thus minimized, there is likewise no hard and fast rule. The short-haul principle, or *Princip der hintergelegenen Stationen*, is accepted as a general rule in Prussia, but exceptions may be admitted by the minister of public works.[2] The Bundesrath of the empire also enunciated the same principle, but expressly inserted the proviso that particular circumstances might justify an infraction of the rule.[3] These exceptions are of frequent occurrence.[4] The short-haul principle does not apply to through-transit rates, to import or export tariffs, or to any competitive centres where the competition is caused by waterways or foreign railways. After the purchase of the Prussian railways by the state a few years ago, the attempt was made to enforce the short-haul rule strictly, but it ignominiously failed.[5] The *Seehafen-Ausnahme-Tarif*, and a large number of other special rates permit charges in derogation of the short-haul principle. Even the earnest defenders of state railways confess that numerous exceptions are indispensable.[6]

In Switzerland the short-haul principle is maintained in a recent report of the Diet, but exceptions are permitted in the

[1] The accounts of European practice in the New York Commission Report on the *pro rata* bill are inexact and untrustworthy.

[2] *Cf.* the ministerial rescripts in Krönig, Die Differentialtarife der Eisenbahnen.

[3] Bundesrath, Sitzung vom 6. April, 1877.

[4] "Ziemlich häufig" is the phrase used by a prominent German official in a letter to me. The matter is decided in every case "auf Grund der jedesmal vorliegenden thatsächlichen Verhältnisse."

[5] *Cf.* especially the test. of Forbes in English Select Committee Rep. (1882). Evid. 169 *et seq.*

[6] Ulrich, Eisenbahn-Tarifwesen (1886), pp. 150–152.

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case of foreign competition.[1] In Austria the short-haul clause is inserted in many of the railway charters, but both in the state and in the private lines the exceptions are exceedingly numerous.[2] In Belgium and Holland, where the laws literally interpreted enjoin mileage rates, the vast majority of actual charges are arranged according to special rates, many of which permit greater charges for the shorter distances.[3] In Italy similar special rates may be approved by the government.[4] Thus in no country where the tariffs are fixed by the state or subject to public control is the short-haul principle an absolute rule.

In England, indeed, the short-haul principle has been affirmed by the courts,[5] and the railway commission has of late gone even further in its opposition to differential rates. In the celebrated Broughton and Plas Power Coal Company case it was held that the charge for the longer distance must not only be greater than for the shorter distance, but must actually more than suffice to cover the total cost of the extra service.[6] But these decisions have had very little influence on the actual arrangements of tariffs in Great Britain, and have been severely criticised in the parliamentary commissions.[7] The decisions, moreover, are by no means uniform, and in a very recent case it was held by the court that differential rates are perfectly legitimate if in the one case the rate is a local rate, and in the other simply a portion of a through rate.[8] It is not "under sub-

[1] Bericht des Bundesrathes an die Bundesversammlung, Nov. 23, 1883; in Hürlimann, Die eidgenössische Eisenbahngesetzgebung (1887).

[2] Schreiber, Das Tarifwesen der Eisenbahnen (1884), S. 181, 191, 199. *Cf.* Nördling, Die Selbstkosten des Eisenbahntransports (1885), S. 219.

[3] Jacqmin, Étude sur les chemins de fer des Pays-bas (1882), p. 87; Nicolai, Les chemins de fer de l'État en Belgique (1885), p. 29.

[4] Agreements of 1885 with the Mediterranean lines, cap. 4, § 39, 44.

[5] *Cf.* Budd *vs.* London and Northwestern Railway Co., 36 L. T. N. S. 802. This was a case of sea competition. The decision was opposed to the principle of the older decisions under Cardwell's act.

[6] Railway Commission, Tenth Report (1883).

[7] Select Com. (1882), Evidence, pp. 71, 89; especially the celebrated cases of Evershed and the Denaby main.

[8] Hull, Barnaby and West Riding Junction Railway *vs.* Yorkshire and Derbyshire Coal Co.

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stantially similar circumstances." Lord Stanley's bill of 1887 in fact expressly provides that the justice of differential rates should be measured by the necessity of securing the traffic.[1]

We are thus prepared to pass an opinion on the Interstate Commerce law. The short-haul clause reads as follows:

> That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance. . . . Provided, however, that upon application to the commission appointed under the provisions of this act, such common carrier may in special cases, after investigation by the commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the commission may, from time to time, prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

It is improbable that the commission will interpret the act in the sense that the words "under substantially similar circumstances and conditions" justify all existing differential rates due to competition. This would practically emasculate the law. But on the other hand an analysis of the principles of rates and the results of European experience have shown us that any attempt to apply the law in all cases would be ruinous. A strict enforcement of the short-haul clause would most certainly result in general discontent and a speedy repeal. The safety-valve consists in the discretion afforded to the commissioners, and upon them the success or failure of the law depends. The act is an expression of a correct principle, but the limitations of the principle are no less obvious. The country is to be congratulated on the legislative recognition of the rule; let us trust that there may be equal cause for congratulation on the official recognition of its limitations.

Our preliminary conclusion may now be formulated. Under a system of free competition among private railways the

[1] Railway and Canal Traffic bill, § 25, sec. 2.

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principle of value of service or charging what the traffic will bear is the only rational method, calculated to give the most efficient service and the greatest profits. But the existence or possibility of the abuse of power requires the restriction of this unlimited liberty in the public interest. The reconciliation of the railways and the public can take place only through the interposition of public authority. The public authority must lay down the rule of equal treatment as the fundamental doctrine, but must recognize the principle of value as a reason for departing from the doctrine in any individual case. Omission of either duty necessarily entails injustice or inefficiency. The short-haul clause is a partial recognition of the demand for equal treatment; the discretion given the commission is implicitly a partial recognition of the theory of value. The Interstate Commerce act thus accepts the principle and concedes its limitations; in this respect at least it is a wise and judicious measure. For the commission to ignore the limitations in the attempt to realize the principle would be an act of consummate folly.

EDWIN R. A. SELIGMAN.

(*To be continued.*)

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HOW CUSTOMS DUTIES WORK.

A PECULIAR change has of late come over the character of the never-ceasing controversy as to what is the wisest system of customs duties. Not only do we see the free-trade party in this country becoming bolder and more persistent in their attacks on our protective policy at the same time that a sentiment in favor of imitating that policy has begun to raise its head in the land of Cobden and Bright; but American protectionists, who have always appealed to the marvellous advance of the United States in the last quarter of a century as an argument worth more than any theories of political economy, now seem more inclined to prove the logical correctness of their views than to show their practical effect, while free traders are turning from theory to fact, and begin to claim that the logic of events is on their side. The transformation cannot be without cause, and the most obvious one is a fact which has been freely conceded only by a few — that economic conditions vary inevitably in different countries, and are constantly changing with the progress of time. Oblivious to this, the advocates of either cause go on threshing out the same old chaff which was once wheat, repeating arguments that are now as applicable to the situation as would be a discussion of the feudal system in an effort to settle the labor question.

Forty-five years ago, English public sentiment had been so fully convinced of the need of encouragement to manufacturing industries, that English statesmen resolved to withdraw the protective barriers against foreign breadstuffs which had kept up the price of domestic produce and thus insured high rents to the landlords. Twenty years later, after a period of modified free trade, we began to carry out a radically different fiscal policy; due to a variety of causes perhaps, but if not in the first instance the outcome of a definite economic conviction, certainly

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resulting in a very short time in a widely spread popular belief that we needed to develop manufacturing industries, and that the only way to do this was by keeping out foreign manufactured goods. Although England removed all duties, or rather retained only a few very low ones, and these purely for revenue, she did not aim at securing cheap iron or cotton or wool, but at giving her factory operatives cheap grain. In like manner we now have prohibitive duties on wheat and corn, but they are practically inoperative when we are producing a great surplus at lower cost than is possible in western Europe. Both nations sought from the beginning, and still seek, the same end — to develop manufactures at the expense of agriculture; in other words, either to force the owners of land to pay a bonus to the makers of articles which are the product of labor rather than the gift of nature, as in America, or to equalize matters between these two classes, as in England. So far as the object is concerned, it may be conceded to be good, without considering the method for its attainment; and I will not delay to discuss what must always be a disputed point because impossible of actual demonstration, *viz.*, whether a nation does well to encourage industries which can only be pursued at an artificial cost, when the purpose of doing so is to attain a political or social advantage or to so naturalize the desired industries as to put them ultimately beyond danger from foreign competition. Waiving the question whether such policy is wise, let us see practically whether we are succeeding to-day in our efforts in this direction as well as our British cousins have done in theirs, which must be admitted to have made their little island a great manufacturing country.

Since the Morrill Tariff was first adopted, our manufactures have certainly been marvellously increased, and if the increase was not caused by protection, it has at least been coincident with its sway. But for ten years past it has been quite evident — and doubtless the trouble had been growing for some time before it became apparent — that while we are by no means standing still, we seem, if anything, further away from the industrial utopia. Prices, while to some extent reduced, have

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still been maintained at higher levels than rule abroad, and yet manufacturers find their margins of profit daily vanishing. Wages have for the most part stood still in protected industries, have in some cases absolutely fallen, and have nowhere advanced as they should have done with a rapidly advancing civilization. America is no longer a promised land for the laborer; for of the swarms of immigrants whom we have attracted, many cannot find work. Meanwhile stocks of unsalable goods accumulate until the pressure forces out enough establishments to check the supply. Not one of these things should have happened under a system of protection, according to its friends, and at least one would not have been prophesied by its enemies — that manufacturers' profits should have decreased, although the prices of their goods are only slightly reduced. But this has gone on to such an extent that free traders are hard put to it for examples of extortion which they can hold up to excite the indignation of farmers and other consumers of manufactured goods, on whom must fall the burden of high prices created by protective duties. Manufacturers get, in most industries, nearly as high prices as they got fifteen years ago; they pay no more wages, and yet their (real or assumed) extravagant profits have been reduced to a minimum. Now the protective theory is that when protection has been maintained until industries are fully developed, domestic competition will reduce the price of manufactured goods to as low a point as that at which they could be imported free, and yet the work will be done at home. Up to this point, the whole nation would practically contribute to build the plant, educate the workmen and support their employers; but once these ends accomplished, we should pay nothing for our privileges, and we should even be on a basis from which to export our surplus. The surest sign that domestic competition has reached its full limit is that wages are low and that profits are at the same time cut down to the narrowest margin, and that we are able to make all the goods that we can use. These tokens stare us in the face to-day; but manufacturers have certainly not remitted any of their profits to consumers by means of

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lowering prices, for these are nearly as high as they ever were, and we can only send abroad a few goods whose cost is nearly all in labor and very little in material. And by this one fact we are led to see why the promises made us in 1861, and repeated so often since, are not realized; why the home competition has reduced only profits and wages, but not prices.

The consumer commonly consoles himself for the increased expense of living by the pleasing reflection that he is at least assisting to develop infant industries, or to maintain those already established which, while useful or even necessary, seem yet to be unable to stand alone. The truth of the matter — which he rarely understands — is this: that in our present stage of progress every dollar taken from his pocket to pay for more than a natural cost goes simply through the manufacturer's hands to the man who produces raw material, and is neither divided among operatives as higher wages nor retained by the employer as an extra profit which must be given him to induce him to carry on the manufacture. If the article purchased is one of the manifold forms of that typical protected product, iron, — whether it is a casting direct from the crude pig or a bar from the puddling furnace or a steel rail from the Bessemer converter, — it costs a higher price than it would in free-trade England; but the difference of cost does not benefit the furnaceman, the mill-owner, or even their hands, for none of them earn more for each ton they turn out than they would in like pursuits abroad. The real beneficiary of the tariff on all these forms of iron is the mine-owner, from whose land has come the ore and the coal out of which the finished iron has been evolved. When we compare the selling prices, here and abroad, of such highly finished goods as nails, stamped ware, elaborate castings, agricultural implements, and the like, we find but little difference; for in these the chief item of cost is labor, and this is cheap in America, because daily wages are high.[1] But the nearer we

[1] Experience and theory alike have proved that the high wages that are paid in this country are nothing more than compensation for superior efficiency; that if American employers pay more by the day than European employers, they get more work done, and when they figure up the cost of the product, find that a smaller percentage has gone into wages.

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come to the ultimate raw material, the closer is the correspondence between the rate of duty and the higher range of domestic prices. Analyze the various items which go to make up a ton of pig iron, — the first crude manufactured stage, — and the mystery is solved. The ore, the coal, and the limestone, which are the only elements entering into the cost of a stove or a kettle that nature gives, and whose quantity cannot be increased or diminished by any fiscal policy, are sold to the furnace-man who smelts them into pig iron for just as much more per ton of iron that they will produce, as he will receive for that same ton in comparison with his competitor abroad. Or if it is a wooden house that the consumer wants to build, or a chair or table that he has to buy, an extra toll must be paid because there is a tariff duty on lumber. Yet the operator of the saw-mill or the furniture factory — the manufacturer, in short, whose business protection is supposed to assist, and whom it should thereby aid to pay higher wages, — does not earn larger profits than he would in some other line of trade. It makes no difference practically whether he rents timber land and pays the owner a royalty, or whether he buys his logs already cut; for in either case he must pay directly or indirectly for his material all the extra price that the tariff helps him to charge for his goods.

These two great industries, iron and lumber, are in so large a degree the foundation of nearly all our manufactures, if not as material, then as buildings or plant or tools, that enhanced price for either or both those two articles must invariably be added to their indirect products; and if our boots or shirts are dearer than they should be, we can trace it back in most cases to the pocket of the mine or forest owner, who is the monopolist that uses a long chain of manufacturers as collecting agents. Some of the prominent protective duties are on confessedly agricultural products, such as tobacco or sugar, and do not even masquerade as developing manufactures. Distinct again from all others is the wool tariff, which may with equal correctness be considered either an iniquity or a folly; since there are only a few wool-raisers — and those the men who range great flocks on

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public land — who get more for their wool through the working of the tariff than the same tariff forces them to pay in the cost of their carpets, blankets, and woollen clothes. Even these men, veritable monopolists, and land monopolists at that, may easily lose their gains made in this way through counterbalancing losses from low prices, consequent on diminished demand; because much of our wool, being worthless unless mixed with wool that can only be grown abroad, must be sold sufficiently low to make up for the premium added by tariff charges to the price of the foreign stuff needed for admixture.

But what is the reason that the duties on iron, lumber, and their products (together with those on articles which are raised in price mainly because dear iron or lumber enters into their cost) no longer encourage manufacturers by means of unusual returns to invest their capital and energy? It cannot be denied that this was accomplished by the protective system fifteen or twenty years ago, and that thus the strictures of free traders on subsidized monopolies were justified, and on the other hand the claims of protectionists that a diversity of industries was effected were warranted. Protectionists are right when they say that there can be no monopoly in a business which all are free to enter and pursue on equal terms; but even if we put aside the industries which are confined to a few by the patent laws, and pass over the question how far combinations of those already established can exclude new competitors by a commercial warfare, there still remains the serious difficulty that a natural monopoly exists in the sources of raw material. All forms of iron and lumber are derived from certain natural advantages, which cannot be increased by any laws or by increase of demand. While manufactures are really in their infancy, there is little competition to buy raw material, and an extra price added to the finished goods is mostly secured by the manufacturer, thus affording a bonus actually paid by the community for the maintenance of the industry; but as more factories are built, they not only press on each other as sellers of goods, but even more as buyers of material; and so the cost of the material gradually creeps higher, always proportionately and often abso-

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lutely, until the point is reached where we stand to-day, when the capital, skill, and labor engaged in transforming this raw material into manufactured goods is paid with the smallest percentage that will keep the industry alive, while the consumer is supplied at no lower price. For men who have iron or coal quietly lying in mines, or, what is even safer, forests that add daily by growth to their own value, can so much better afford to wait that it is not surprising to find them dictate terms more effectively than the consumer, who must have the necessaries of life. In exact proportion to the number of establishments that have grown up under protection in any given district has this process gone on; and as fast as manufactures increase in each state and county that now has few, the number of users of raw material increases, and the manufacturers find their share of the spoils passing over to those who own the land from which the material must come.

If, then, our point is established, — if, admitting and even asserting the wisdom of a policy that will really build up manufacturing industries at home, we must yet recognize that the time has come when the tariff no longer performs this duty, — what should we do? When all the excess of price that consumers pay is appropriated by those whose only contribution to manufacturing activity has been their foresight or good fortune in appropriating the land from the surface or the bowels of which supplies must be drawn, there is no encouragement to invest capital in new plant; and accordingly we find the disposition to do so constantly lessening. When our own market is glutted we cannot turn elsewhere for an outlet, because the raw material has cost so much more than it would be worth anywhere else in the world that the finished goods cannot be sold abroad; and so the practical effect of the tariff to-day, now that we have reached the limits of a home demand, is to restrict all further development, not to stimulate it. We may be willing to acknowledge a heavy debt to the protective tariff, but we have outgrown it and need a radically different policy. Free raw material alone would in many cases not remedy the matter, — least of all in iron, which lies at the bottom of half our

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tariff troubles. If we had to make our iron from foreign material, for every ton produced we would have to pay freight on over three tons of ore and coal, two-thirds of which would be waste. Here is a natural protection which would react to the benefit of the miners as surely as the artificial one. This, too, is the reason why iron miners have been able to enforce a monopoly without such concerted action as exists in the coal trade, or such as so long kept the home market for copper above the export price; for the monopoly created is local in each case, since furnaces must depend on local supplies.

But to some extent in all articles, and to a very marked degree in iron, there is a fundamental change in the mode of treatment as a material passes from the cruder to the more finished form. In the first stages the work of the manufacturer consists largely in getting rid of extraneous matter, but these processes passed, labor comes more largely into play for changing the form or character without losing weight. It is at this point that tariff reform should begin and cut off absolutely the duties not only on absolutely raw material, but on every form of manufactured goods which loses any weight in being converted into a more highly finished form. By this plan only can we liberate manufacturers from the necessity of exacting high prices and turning them over to a class who are potentially, if not nominally, their landlords; give a needed relief to consumers; and establish a range of values which will give us an export trade. This end attained, it makes little difference whether or not we have tariff duties on highly manufactured goods; for now that the public bounty has laid the foundation, domestic competition can be trusted to keep down prices if only material is cheap.

Reverting to our original thought, that our business to-day is with the tariff of 1886, not that of 1861, with practical problems and not theoretical ones, it must be plain that the tariff on iron (and indeed on all metals or minerals), on lumber, and on manufactured goods whose cost depends largely on the cost of iron or lumber, stands on the same basis as the purely agricultural duties on wood, sugar, and tobacco; that it is at bottom a

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means of extorting rent for ore and forest lands, and, far from contributing to the further development of manufacturing industries, in reality depresses them and works in the same direction as did the English Corn Laws, directly opposite to the intentions of those who are protectionists from principle.

In all this I have said nothing of the effect of the tariff on wages, and if my views are accepted, I cannot see that it is necessary to say anything. In the best position to which trades unions can bring him, the laborer is a partner of the capitalist in his venture; and if the capitalist is really only an agent of the landowner, to whom he must pay over all surplus profits that he has secured from consumers, there is no extra compensation left for the laborer. Our workmen are intelligent enough to see that protection has given them neither steady employment nor — if we take into account their superior efficiency — high wages; and they may yet conclude that they have not only made a mistake in supporting laws that exclude foreign goods and admit foreign laborers, but that they are committing a still graver error in deliberately shutting themselves off from foreign buyers who would give us all more work to do, — when the only effect of our present policy is to pay a higher rent to owners of land.

EDWARD J. SHRIVER.

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THE BENEFIT FEATURES OF AMERICAN TRADES UNIONS.

SO little being known of the means other than strikes which our American labor organizations are using to elevate and help their members, a circular letter of eighteen comprehensive questions was sent out in the fall of 1886, to the secretaries of the forty-four national and international trades unions enumerated in the official publications of some of the unions.[1]

Fourteen labor organizations with 145,915 members in the United States gave fairly complete returns. Seven with about 100,000 members reported either that the benefit features, though in most cases important, were entirely under the control of the local branches which had not furnished returns to the national secretary, or that the returns could not be published. A few facts were also gathered relative to the benefits — entirely local in character, except a death benefit — of the 700,000 to 900,000 members of the Knights of Labor. From many unions it was impossible to secure returns for 1886. In those cases returns for 1885 are given. The unions that did report, however, gave information which may justify a short article.

It must be borne in mind that the very recent development of strong labor organizations on American soil has not given time for the growth of those benevolent features which are such a marked characteristic of the English unions and of such effectiveness in relieving distress and assisting to obtain work. Strikes are the almost inevitable attendant of the birth of labor organizations. Sick, funeral, accident, out-of-work and travelling benefits, *etc.*, come later. Those American unions which now possess these features did not have them at first, while those unions which now have none will almost surely be led to adopt ere long friendly features. Many of their leaders have

[1] See *The Carpenter*, September, 1886, and *The Cigar-makers' Official Journal*, July, 1886. A list (corrected to date) of most of the unions is given in every number of *The Labor Leader*, Boston, Mass.

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in their correspondence with the writer directly testified to this. Again, the migratory character of American workmen has often taken them to places where there were no local divisions of the union to which they belonged. With the rapid extension of our trades unions which, according to competent judges, now number, outside the Knights of Labor, considerably over half a million men, and with the more settled habits of our employees, the great obstacles to the growth of benefit features are disappearing. Death benefits may continue largely the province of the present insurance companies; but where these companies refuse to assume the extra risks of such hazardous employments as mining and railroading, the trades societies are under imperative obligations to insure their members. The same may be said of accident benefits. Assistance to those out of work from any good cause and to those unable to travel in search of work, or to the sick, — the so-called out-of-work, travelling, and sick benefits, — can only be given by societies whose members know each other individually, work by each other's side, and are personally interested in detecting all "shamming" which would deplete the common funds.

We hear much nowadays of competitive price and just price, as if they were opposed to one another. It can easily be shown, the writer believes, that they are as nearly identical as can be conceived, provided — and that is the vital point — that there is any such thing practicable in the economic life of to-day as perfectly free competition. To realize it, capital must be perfectly mobile, and the laborer must be intelligent enough to know where he can improve his condition; he must have the ability and the will to seek that place and must be free from the necessity, in order to keep starvation from the door, of offering his services at cut-throat or bare subsistence prices to the first employer willing to give him work. How far this ideal state of the old economist is from the actual facts of life we all know. A study then of the various benevolent features of labor organizations is a study of the crutches, often most essential to the lame, by which the poor or ignorant or unfortunate wage-earner may obtain the advantages of fair com-

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petition on somewhat equal terms with his fellow-workmen and with his employer.

One of the most advanced in its benefit features of our unions is the *Cigar-makers' International Union of America*, whose membership grew from 1016 in September, 1877, to 1400 in September, 1883, and 25,789 in 262 unions December 1, 1886. It is called international because it includes Canada as well as the United States. In 1879 the system of relief funds was adopted. In the following six years, ending September 1, 1885, there was spent:

Assistance to travelling cigar-makers . .	$126,885.27
Sick benefit	84,414.52
Death benefit	10,613.25
Strike benefit	310,657.26
	$532,570.30

The president estimates that, adding to these the amounts raised by voluntary subscriptions and local assessments, the aggregate expenditure exceeded $650,000. During the three months of September, October, and November, 1886, the national organization spent $24,671.75 for travelling, sick, and death benefits, and only $7961.81, or twenty-four per cent of the total expenditures, for strikes. If, as is probable, this was a fair sample of the year's expenditure, there was spent on benefit features about $98,000 in 1887, and for strikes about $32,000.

These benefits are carefully guarded. No strike can be entered upon with the hope of help from the rest of the order, without first being approved by the executive body of the national order; and if the proposed strike is to involve more than twenty-five men, it must be approved, after careful examination of all the facts, by a two-thirds majority of all the votes cast in all the local unions of the entire order. A wiser, more conservative measure could not be devised. To avoid the temptation of long-continued strikes it is provided that the relief for the first sixteen weeks shall be four dollars per week, for the following eight weeks three dollars per week, and then two dollars per

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week until the strike is concluded. These munificent sums can hardly be said to encourage idleness. The travelling benefit is guarded as follows. Any one who has been a member in good standing for six months and is desirous of seeking employment elsewhere is entitled to a loan sufficient for transportation by the cheapest route to the nearest union in any direction that he desires to travel, and to a loan of fifty cents besides; but the aggregate loans must not exceed twenty dollars, or twelve dollars at any one time. These loans must be repaid by a weekly payment of ten per cent of his weekly wages to the officer appointed for the purpose in the union to which he goes, until the debt is cancelled. This tends to prevent reckless or idle travelling on the union's funds. The sick fund is guarded with equal care. A sick member is entitled to five dollars per week from the time of notifying the proper officer, provided his sickness or inability shall last at least seven days, and shall not have been caused by intemperance, debauchery, or other immoral conduct. But if the sickness extend beyond the eighth week, the relief then becomes three dollars per week. No relief is given in any one year after a second eight weeks' sickness. Fifty dollars is given to assist in the burial of all who have been members one year.

The Amalgamated Society of Carpenters and Joiners. This truly international organization embraced in December, 1885, a membership of 22,935 in all English-speaking lands, of which 1127 were in the United States. The benevolent features of the entire organization for 1885, are thus given in the twenty-sixth annual report;

The unemployed benefit	$174,549.70
Sending members to situations	1,471.67
Tool benefit	7,498.50
Sick benefit	83,597.42
Accident benefit	8,750.00
Superannuation	12,909.70
Funeral benefit	14,568.20
Strikes	23,127.60
	$326,472.79

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The amount spent in strikes was only seven per cent of the whole. The report of the twenty-five American branches is as follows:

Unemployed benefit	$10,199.01
Travelling	52.94
Tool benefit	971.80
Sick benefit	3,017.81
Superannuation	273.46
Strikes	772.78
	$15,287.80

Here the strike fund was only five per cent of the whole. After a membership of six months one is entitled to the unemployed benefit of three dollars and fifty cents a week for the first twelve weeks whether the enforced idleness is continuous or not, and two dollars and ten cents a week for the next twelve weeks whether successive or not, making a total of sixty-seven dollars and ten cents in one year provided he is thrown out of work through a depression of trade. If he find work or has reason to expect that he can find work in another place, he is entitled to travelling expenses to the place of expected employment. No member can be sent to a distant locality, because he wishes to go there, when there is suitable employment for him nearer home; and under no circumstances can any member be sent more than three hundred miles at the society's expense. Any officer of the society discharged for holding office is entitled to full wages, and the cost of removing his family to the place at which he obtains employment. The sick benefit for the first twenty-six weeks is four dollars and twenty cents per week, and two dollars and ten cents a week thereafter, as long as the sickness continues. The accident benefit to members totally disabled is seven dollars, and to those partly disabled three dollars and fifty cents. The superannuation benefit is two dollars and forty-five cents per week for life to those over fifty years of age, and through old age or infirmity incapable of earning more than half the usual amount of wages, and who have been members of the society for eighteen years. If they have

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been members for twenty-five years, two dollars and eighty cents a week is given. Thirty-five dollars is allowed on the death of the wife of a member, and forty-nine on that of a member. Tools lost by fire, water, or theft to the extent of one dollar and forty cents are replaced according to their value. This benefit is paid in tools, not in money.

The Brotherhood of Carpenters and Joiners of America. The growth of this union the past year has been remarkable, as is indicated by the following table:

Years.	No. Unions in Good Standing.	Total Membership.
1881	12	2,042
1882	23	3,780
1883	26	3,293
1884	47	4,364
1885	80	5,789
1886, July	177	21,423
1886, December		35,421

Of the total expenses of the local unions, July, 1885–July, 1886, which amounted to $36,613.46, only $1641.82, or about three and one-half per cent were for strikes. The benefits paid amounted in the aggregate to $14,200. A funeral benefit of two hundred and fifty dollars is paid on the death of a member, and fifty dollars on the death of a wife. An accident benefit of two hundred and fifty dollars is given if a member is permanently disabled. Next year, in the opinion of the general secretary, P. J. McGuire, a loss of tools and superannuation benefit will be added.

The German American Typographia. This union, though numbering only nine hundred and fifty printers, has quite a developed system of benefits. Five dollars a week is paid to a sick member until he has received three hundred dollars; then three dollars a week until he has received two hundred dollars more. No further benefit can be received for ten years. A death benefit is paid of twenty-five dollars on the death of the wife of a member, and two hundred on that of a member. There is a travelling benefit of two cents a mile for the first two

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hundred miles, and one cent a mile for any further distance on a continued journey. For those out of work for other causes than strikes, there is a benefit of five dollars a week, but not more than sixty dollars in one year. The strike benefit is seven dollars per week. In this, as in the previous cases considered, the annual dues cover all the benefits save the funeral benefits, for which assessments are provided. The funds spent for these various benefits, January–December 31, 1886, were as follows:

Sick benefit	$3,077.95
Out of work	1,097.95
Travelling	588.91
Death	1,450.00
	$6,234.81
Strikes	2,604.79
Total	$8,839.60

The strike expenses were less than one-third of the whole. The general secretary writes of the amount spent for strikes: "This amount is exceptionally high, because we enforced the eight-hour rule on May 1, 1886."

The Brotherhood of Locomotive Engineers has not as many benefits as some organizations, but pays larger amounts. Nearly 5000 of the 20,000 members are enrolled in the relief department and subject to the special one dollar assessments necessary to pay to the friends of those thus enrolled funeral benefits of $3000 and accident benefits of the same sum for the loss of arm, leg, or eyesight. Two hundred and sixty in March paid assessments of fifty cents, and carried a $1500 accident insurance policy instead of a policy for $3000. There were paid thus, by means of twelve assessments in the two months of January and February, 1887, accident and death benefits amounting to $52,500. About $200,000 were thus paid in 1886. Nothing was spent for strikes, which, as the public well knows, are not in much favor with this organization. Over $2,000,000 have been paid since the organization of the order in 1864. The number of members in the brotherhood and in the relief department is rapidly growing.

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The Locomotive Firemen. This organization, with its 17,000 members, pays $1500 in case of death or total disability. From September 1, 1884, to September 1, 1885, the amount thus paid was $147,000. From September 1, 1885, to September 1, 1886, $228,000. The organization has never had a strike. The local branches assist the sick and those out of work, but in this, as in many other large labor organizations examined, the amount so spent does not come under the knowledge of the general secretary or president.

The Iron-moulders' Union. This organization of over twenty thousand members is, in the language of its president, protective and benevolent. It assists members in procuring employment and in receiving a fair remuneration for the same. It sees that apprentices are properly instructed in the trade. The sick benefit, from five dollars to seven dollars per week, is paid by the local branches. The exact sum expended the past year cannot be given. The central body gives one hundred dollars death benefit, and spent thus, in 1885–86, thirty-five thousand dollars. The local branches, also, give fifty to sixty dollars death benefit. These locals also give assistance to those too old or feeble to work. Fifty-six thousand dollars were spent in strikes, September, 1885, to September, 1886, by the central body, in addition to large contributions of the local branches.

The Furniture-workers. This organization of five thousand[1] members pays a sick benefit during the time of sickness of six dollars a week, and a death benefit of two hundred and fifty dollars for a member, and one hundred for a member's wife. Members can insure their tools by special assessments for amounts ranging from twenty-five to one hundred and fifty dollars. There are special assessments and initiation fees for these various benefits. Twelve hundred have subscribed to the tool insurance, which covers $78,000 worth of tools; eight hundred to the sick benefit; and six hundred to the death benefit. During the two years ending July 1, 1886, there were paid:

[1] The numbers in many cases are only approximate, but the margin of error is probably not over ten per cent. The membership in most of these unions is rapidly growing, and the secretaries have often preferred to give round numbers, rather than to attempt the impossible by trying to give exact figures.

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Death benefit	$4,250
Sick benefit	5,858
Tool insurance	3,858
	$14,966
Strikes	4,000

During this period much assistance to needy members was given by the local branches, which also spent forty thousand dollars on the eight-hour strike.

The Horse-shoers' Union. This organization, numbering about five thousand, has a sick benefit of five dollars per week for three months, and a death benefit of about five hundred and fifty dollars. Fifty dollars is raised by the local union, and an assessment of ten cents per member is made on the entire national organization. Only about three hundred dollars was spent for strikes last year. The president writes:

> We seldom have any strikes, and, when we do, they are very soon settled either for us or against us, but generally for us. We have twenty-eight local unions represented in the national union and all in a very prosperous condition, owing in a great measure to our conservatism.

The Boiler-makers, numbering over five thousand, have a sick benefit of five dollars per week, payable for twenty-six weeks of a year, and death and accident benefits of fifty dollars each. These sums are paid from the annual dues. The benefits during 1886 were about $5000, and the strike expenses $3500.

The Glass-workers, with a membership of five thousand pay a sick benefit of five dollars per week and a death benefit of from one hundred to three hundred dollars. Members on strikes receive six dollars per week. Money for the first two objects comes from special weekly assessments of those who wish to enter the relief department. Three thousand now pay these weekly sums, of from ten to one hundred and fifty dollars, as the needs of the order require.

The sick benefit for the year 1885-86, was	$5,000
For the last three years it has averaged	4,000
Death benefit for the year 1885-86 was	6,100
For the last three years it has averaged	4,500

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The strike expenses have been four times as large as the other benefits, being $40,000 in 1885-86, and averaging $38,000 in the last three years.

The Silk-hatters' Union, with a membership of four hundred and thirteen, has paid twenty-five hundred dollars in the last two years for the relief of its members, and nothing for strikes. The general secretary writes that the objects of the association are protective and benevolent.

> Organized in 1845, experience has taught and disciplined us to the utter futility of strikes when more reasonable means can be resorted to to attain an object sought; hence we have no strikes or lock-outs.

The Amalgamated Society of Engineers, embracing coppersmiths, brass-finishers, turners, fitters, mill-wrights, smiths, pattern-makers, machine-joiners, plainers, slotters, and borers, has its headquarters in England, but numbers 1809 members in 42 branches in the United States. The entire membership of 51,689 in 432 branches in 1885 was distributed as follows: In England there were three hundred and eight branches; in Scotland, forty-two; in Ireland, fourteen; in Australia, eleven; in New Zealand, three; in Queensland, two; in the East Indies, one; in Malta, one; in Canada, seven; in the United States, forty-two; in France, one. The benefit features of this strong organization are remarkable. The general secretary thus reported for 1885:

> During the last year we spent no less than £188,277 on our various benefits and other expenses; the outlay on both being unusually heavy. Now, this is an enormously large sum for any workingmen's organization to disburse, and indicates an amount of mutual trustfulness and self-help which is truly one of the most cheering signs we know of in connection with the history of our order. Yet even this is nothing to what we were called upon to do in 1879. Our expenditure for that year was no less than £245,826 or £57,549 more than last year. Taking the expenditure on benefits only for the last ten years, it falls very little short of one and one-quarter millions of pounds. Surely this is something to be proud of. In times like the present, when special relief funds for the unemployed are the order of the day, it is but right that we should boast of the work we have done in keeping our members from absolute want, and rendering them independent of outside aid or charity.

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We will first consider the statistics of the whole society, and then of the American branches. The benefits paid in 1885 were as follows: $393,345 to those out of work, whose number averaged 3240 during the several weeks of the year; $154,385 to sick benefits; $163,040 superannuation benefits; $9000 accident benefits; $43,445 funeral and death benefits; $20,800 benevolent grants to any needing help; $48,365 strike expenses. It will be noticed that of the above benefits, amounting to $832,380, the strike expenses were only 5.8 per cent. These benefits averaged $16.10 per member. Equally significant is the summary for the thirty-five years, 1851–1885 inclusive, during which the membership steadily grew from 11,829 in 1851 to 20,935 in 1860, 34,711 in 1870, 44,692 in 1880, and 51,689 in 1885. During these thirty-five years the benefits were:

To those out of work	$6,204,365
To the sick	2,777,810
Those too old to work	1,668,215
The injured	220,500
The families of the deceased	866,725
Those needing help	302,870
To assist strikes in this and other trades	418,690
	$12,459,175

During all this time the strike expenses were only 3.86 per cent of the whole expenditure.

The purpose of this article requires a more particular consideration of the benefits paid in this country. The sick benefit amounts to three dollars per week for the first twenty-six weeks, and then is graded down with each extra week. The out-of-work benefit is three dollars per week for fourteen weeks, and then is graded down. The travelling benefit is three dollars per week, paid in any town where there is a branch. Seventy-two dollars are paid at death. The strike benefit is three dollars weekly, paid like all the above from the regular dues, and one dollar and fifty cents per week additional from the contingent fund raised by special levy. The dues are thirty cents per week so long as the general reserve fund is not under eighteen dollars per member in the United States, or

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fifteen dollars in other countries. When the fund is under these figures, the dues are increased fifteen cents per week till the normal condition of the funds is restored. If a member while following his ordinary duties is maimed so seriously that he cannot earn the average wages of his district, he is, if ten years a member, entitled to three hundred dollars, and if over ten years in the society, to six hundred dollars. On the death of a member his wife is entitled to thirty dollars. A superannuation benefit is paid to those who have been members for a certain number of years and who from physical or mental inability cannot earn the average wages of the district. If a man has been in the society twenty-five years, he receives one dollar and eighty cents per week; if thirty years, two dollars and ten cents; if thirty-five years, two dollars and forty cents; and if forty years, three dollars per week. Appropriations are made from the benevolent fund and donated to members in case of special distress. This fund, like the contingent and accident funds and that for the assistance of other trades, is raised by special assessments. Payment to the benevolent fund is voluntary, but the assessment is always paid. All other levies are compulsory. The dues, during the twelve months ending in March, 1887, have averaged a little over fifty cents a week. The returns for 1885, the latest at command, show that among the American branches there were paid:

To those out of work	$21,695
To the sick	3,668
Travelling benefits	737
Superannuation benefits	2,393
Funeral benefits	600
Donations to those in distress	1,391
	$30,484

Nothing seems to have been spent on strikes.

The National Association of Stationary Engineers, a recently formed union, with a growth in membership in 1886 from 2926 to 3926, reports 273 lectures given to the members and 1410 books added to the association libraries, and the expenditure of $1785 for the relief of sick, disabled, or unfortunate

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brethren. The national secretary justly believes that these facts "are evidence that the order is true to its principles and is doing noble work in the direction of charity and increase of knowledge." One of the chief objects of this union is to secure a proper inspection of boilers and engines and a proper licensing of stationary engineers, in order to prevent the constantly recurring explosions and losses of life caused by the criminal desire of some employers to obtain the cheapest engines and lowest paid employees regardless of safety.

The following table gives the membership and total benefit and strike expenses for 1885 (or 1886, as the case may be) of fourteen unions:

	MEMBERSHIP.	BENEFIT EXPENSES.	STRIKE EXPENSES.
Cigar-makers	25,789	abt. $98,000.00[1]	$32,000.00
Amalgamated Society of Carpenters and Joiners (Amer. branches)	1,127	14,515.02	772.78
Brotherhood of Carpenters and Joiners	35,421	34,971.64	1,641.80
Locomotive Engineers	20,000	abt. 300,000.00	—
Locomotive Firemen	17,000	228,000.00	—
Amalgamated Society of Engineers (American branches)	1,289	30,484.00	—
Stationary Engineers	3,926	1,785.00	—
Silk-hatters	413	2,500.00	—
Glass-workers	5,000	9,000.00	40,000.00
Boiler-makers	5,000	5,000.00	3,500.00
Horse-shoers	5,000	not known	300.00
Furniture-workers	5,000	abt. 7,000.00	abt. 2,000.00
Iron-moulders	20,000	35,000.00	56,000.00
German-American Typographia	950	6,234.81	2,604.79
14 unions	145,915	$772,290.47	$138,819.39

[1] The figures for the year were not at command, and this is merely an estimate on the basis of the official returns for one-fourth of the year.

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The strike expenses were only $17.80 as against each $100 spent on benefit features, and were probably not over twelve per cent of the entire expenditure of these fourteen unions. In only two of the fourteen unions did the strike equal the benefit expenses. The following seven unions reported that the benefits were under the control of the branches, and no statistics were at hand.

	Membership.
Journeymen Bakers	8,000
Brick-layers and Stone-masons	20,000
Bottle-blowers	1,200
International Typographical Union	30,000
International Association of Plumbers	2,500
National Association of Iron and Steel-workers	20,000
National Federation of Miners and Mine-laborers	20,000
	101,700

The membership returns are either official or estimated by the national officers. Other unions, like the Switchmen and Granite-cutters, are pledged to entire secrecy. The benefit features of the Knights of Labor are entirely local, save the death benefit. Over ten thousand are now in the relief department, which assesses its members to pay benefits of five hundred to one thousand dollars according to the amount of insurance the member has chosen to carry, on the death or disability of a member. In March and April, 1886, $4350 were thus paid. As the membership rapidly increased afterward, it is probable that over $40,000 were thus expended during the year. The National Federation of Miners and Mine-laborers, with about 20,000 members, is too recently organized to have any distinctive benefit features. The great success which has followed its efforts at arbitration has done much to improve the conditions of labor in the mines, but its consideration is not within the scope of this article. Many of our unions, through their local branches, pay large sums for relief which do not come at all under the cognizance of the national body. Thus the International Union of Brick-layers and Stone-cutters, which, with its 20,000 members, has spent $30,000 in strikes within the last three years, has probably

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spent as much, or more, in benefit features; but these being entirely under the control of the subordinate unions, no figures can be given. Other unions, like that of the Bottle-blowers with a membership of 1200, which have no formulated scheme of benefits, bury their members decently and relieve those in distress. The International Typographical Union, with about 30,000 members, has recently organized a relief department. Its membership is small, but growing rapidly. For a long time, however, all the local branches have been caring most effectually for their own members. As an example, may be mentioned the Chicago Typographical Union No. 16, with 1400 members during the year ending May 1, 1886. The constitution of this "local" provides that seventy-five per cent of the dues, together with the total receipts from all other sources, shall be known as the "general fund," and of this amount five per cent shall be set apart as a fund for keeping the cemetery lots in repair and providing for their adornment, and five per cent shall be set aside "as a fund for the relief of worthy sick and destitute members, to be expended under the direction of the relief committee." A large proportion of this general fund is devoted to benefit features, according to the needs of the members. The secretary of the International Association of Journeymen Plumbers, Steam-fitters and Gas-fitters writes:

> The relief department of this organization is conducted by each local association according to its own views, and consequently I have but little knowledge of the amounts used in this way. The membership of the International Association is at the present time 2500. We are spreading rapidly, and by the first of May will number at least 3000. Our lines extend from Boston to Omaha. The cost of maintaining thirty strikes last year was $2500, — twenty-four of which were successful, four were failures, and two compromised at small advantages. We are now organized so thoroughly that strikes are not expected; and if they do occur, will not last long. We are maintaining a co-operative plumbing company at the city of Milwaukee, which is self-supporting, and which we hope soon to make a paying investment.

Although the above figures cover the organized benefit features of about a million men, they by no means cover all the

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work of the kind performed by the labor organizations to which these men belong, and least of all do they give any adequate idea of the aggregate work of relief and mutual help of these unions. In the course of a recent somewhat extended investigation of co-operation in New England and the Middle states, it fell to my lot to visit the headquarters of many of the divisions of organized labor, and great was my surprise to find the extent to which they were assisting the needy and finding work for the unemployed. The writer had a good illustration of the working of the employment bureau, which is fast assuming prominence in the best unions, when visiting the headquarters of the Chicago Typographical Union No. 16, in March, 1887. The head of a large printing and engraving company in Chicago called to get a competent engraver. The secretary of the "local" could recommend but two men, and was not positive that either would be entirely competent for the difficult work required, but promised to send them to the company at once on trial. Many members called to see if any one had applied for their services, and others to report how they were succeeding in the places to which they had been sent — valuable work this! and the faults of unions that do this kind of service to the community may be looked on with considerable charity. At the headquarters likewise of the Brass-workers' Union in New York City, I observed that those in search of work reported their address and the kind of work in brass that they were best fitted for. Employers come here for help of any particular grade: workmen need not stand about street corners waiting for work, or tramp the city in search of it, or incur expense for advertising, and the employers are saved much annoyance. The oversight of this employment bureau and of relief to the destitute seemed one of the chief occupations of the much, and in some cases, no doubt, justly, derided "walking delegate." In Minneapolis, fifteen hundred miles away from New York, the same thing was observed. It was the testimony there of a competent and unbiassed authority, that the Knights of Labor and the other labor organizations rarely failed to succor the needy or procure work for the

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unemployed of their members, and even in many cases for unorganized labor. It is not within the province of this article to do more than call attention to the self-evident fact that by furnishing an opportunity for social relaxation in the rooms of the unions, which are almost always open, the great temptation to linger about our saloons and low resorts loses much of its power. Not only is temperance promoted, but the mutual distrust of the individual workmen is removed, and they are thus prepared for all those forms of intelligent co-operation by which higher forms of industrial action are made possible. Far be it from me to defend many of the reckless, ill-judged actions of some of our labor organizations. Organization of any kind is simply a weapon. Whether it shall be a benefit or a curse depends upon the intelligence of the members. They, and not the organization, are responsible for abuses. In a large measure also the rest of society is responsible for allowing such ignorance and lack of wise training among us as to render these abuses possible. Danton was right when he said: "If you suffer the poor to grow up as animals, they may chance to become wild beasts and rend you."

But the facts cited in this article are encouraging as showing the way in which the good is replacing the bad in the ranks of united labor. The experience of England gives good ground to expect that with the growth of our labor organizations most of their abuses will disappear and conservatism become the rule. In 1880 the special agents of the United States Census were able to report national benefit features in only five unions, whose 13,032 members spent $53,843.83 in the various forms of relief. What a contrast to the expenditure now reported of fourteen times as much among fourteen unions which embrace eleven times as many members, to say nothing of the vast extent of the system of benefits among the local branches of these and other large labor organizations! The time seems surely approaching when American labor organizations will resemble the British, seven of the largest of which spent only two per cent of their income in 1882 on strikes, and only eight per cent during the previous six years of depression.

EDWARD W. BEMIS.

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MUNICIPAL GOVERNMENT.

"UP to the present time I have scarcely found more than one principle, — so simple that it will seem puerile, and that I scarcely dare to announce it. It consists altogether in this remark: that a human society, and particularly a modern society, is a vast and complicated thing." This is the utmost that M. Taine found to say when, after discussing the condition of France under the Jacobins, he endeavored to discover the fundamental principle to which the disorders of the time were due. What I now have to say is of exactly the same order, — something so simple that I fear it may seem to many of my readers to be hardly worth the saying. It lies entirely in a more or less detailed consideration of this simple statement of M. Taine in its bearings upon the great problem of municipal government.

Whatever else a city may be, we know that it is a vast and complicated social organism. We know, and should never disregard or overlook the fact, that it is the result of numberless necessary and unalterable conditions. Race and environment have contributed to it, as well as a long and continuous line of historical circumstances. Such as it is, however, good or bad, admirable or otherwise, this organism exists and performs its functions by virtue of all these antecedent causes. The part of wisdom lies in the frank admission and acceptance of these conditions. To admit them and to submit to them is the beginning of progress; whatever they may be, they have to be carefully and thoroughly studied. It is always to be borne in mind, consequently, in discussing the problem of municipal government, that the city is the centre of all of the difficulties inherent in the most highly organized and perfectly developed society, and, above all things, that in this country it is the centre of all the difficulties inherent in a democratic society. To understand these difficulties and the problems to which they give rise, it is necessary to know the history and present state of the munici-

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pal organization, its relations to the state, and the relation of the state to it, and, above all, the tendencies of the form of government under and subordinate to which the municipality exists.

The chief source of error and unprofitableness in the endless discussion of the problem of municipal reform lies, I venture to say, not alone in the almost total incapacity of the critics, but in their complete insensibility to their lack of capacity. As a rule, they neither understand why cities are what they are, nor to what extent the results of municipal government cannot be otherwise than those actually achieved, nor wherein it is possible to alter the existing system so as either to bring it into logical coherence with the facts of social life, or to prevent making the incoherence which exists still greater than it is. That the first newspaper editor or the first amateur pianist whom we meet should consider himself fully qualified to discuss the principles of harmony and thoroughbass, and to criticise the orchestration of Damrosch's or Thomas's trained musicians, would cause us no surprise: and yet their criticism would be disregarded not only because it is thoroughly worthless, but because it is harmless. But when a newspaper editor or a political orator criticises the organization of society, and discusses the best method for changing the mechanism of organized social life, infinitely complex as it is, we not only listen to him and admit his right to criticise, but in this case, where his criticism may be most harmful, permit ourselves to be governed by it. We accordingly see our form of government made a subject of continuous and never-ending legislative experimentation on society.

It is because the problem is so complex that the truth is so little known, and because the difficulties and miscarriages of administration are so obvious, that criticism is so easy and so misdirected. As matter of fact, I believe that, taking them by and large, the cities of this country are generally well governed; and I believe that the city of New York is not only as well governed as we can expect it to be under existing laws and political conditions, but is better governed than we ought to expect it to be, if we really understood the difficulties of good government

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under a representative democratic form, such as prevails in this city of a million and a half inhabitants. The multitude of reforms which are suggested to the people every year fail entirely to take into consideration the difference between fact and fiction in this regard, and assume that if sufficient legislative changes could be made, a perfect government would become possible; disregarding of the fact that it is the character and occupation of the people, far more than the quality of the legislation, which conduce to good or bad government. All of the disorders, all of the incoherence, all of the difficulties of reforming our municipal governments, as well as all of the tendencies of such changes as are actually made, are incident mainly to this single fact of the complexity of our modern social life. Of course, we cannot stop here to consider in detail how complex a thing is that life which is antecedent to all laws and all charters, but it must nevertheless not be lost sight of even for a moment.

Suppose we were to take the city of New York as an illustration. We should have to consider questions growing out of the physical conformation of the island on which it is built; of the character and distribution of its population; of their nationality, their needs, their occupations, their habits, and the character of the regulative government required by a city so made up. We recognize at a glance that these facts are altogether too complex for discussion here, but it is not necessary to go into them to prove that the complexity of the conditions is the final determining fact in the problem of government. The logical incoherence and complexity of our charter alone, although a secondary fact, will, when we come to look at it, suffice to illustrate the almost inextricable confusion and want of logical method to which complexity can give rise.

The usual complaint is that the expenditure for municipal government is too great; that there are too many public servants; that the public service itself is too poor, — in utter disregard of the fact that these things are incident to increased public work, and to the increased difficulty of such work, all growing out of a continuous tendency to extend the functions of government. This general tendency in the state must be

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most carefully studied, because it directly affects the special tendency in cities. We must learn just what it is, and how far it can be restrained; to what extent it must be submitted to, and how far it can be combated. Its limitations being known, we know for the first time the extent of our own capacity in the special domain which we have in view.

The defects, or what we believe to be defects, of any system of government are easily enough detected, but only too often we do not know whether they are remediable defects or not. We realize, as a sick man will sometimes realize, that we suffer from an unlocated and inexplicable but very distinct pain; we wildly apply some hap-hazard remedy, which too often results only in intensifying the trouble. Thus, generally speaking, the people mean and want well enough when they look to the elective franchise as a final corrective of governmental error; but it brings them no relief. If it be asked why this is, I should answer that it is because the people do not understand that under existing conditions no exercise whatever of the franchise can avail much, and because they do not know how the conditions should be changed so as to make the franchise avail. The reason it does not suffice to cure existing evils is, first, because it does not give us really representative government, and second, because the institutions of government are not logically harmonious with the tendencies of society; so that, even if the people knew exactly what they wanted to achieve at an election, it is not in the power of the officers elected, be they who they may and ever so good, to do what the people believed they could do at the time they voted for them. The first thing to teach the people is that they are fighting the disease by attacking the symptoms, and that no kind of enthusiasm for reform can avail to secure reform so long as the functions of the government are distributed as at present, and the conditions of government are not understood. It may be said that these truths are so general that there is no necessity for their consideration here; but I say that it is because they are so generally left out of consideration in discussing the problems of municipal government that the discussions are so often worse than fruitless.

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The first fact to be considered concerning American cities is, that in point of historical antecedents and present condition, they are unlike any other cities in the world. They are the result of a comparatively new order of things; and while, for instance, we can compare the cost of governing the city of New York with that of governing the city of Berlin, and compare the results of the service rendered by the two municipal systems, we nevertheless should know at the beginning that Berlin has little or nothing, in the way of governmental theory or practice, in common with New York, that these two cities are the results of entirely different sets of conditions, bear entirely different relations to the state, and exist upon a widely different basis of theory. In this country, as has been held by the Supreme Court of the United States not only, but by the appellate courts of most of the states, a municipal corporation is only a subordinate branch of the governmental power of the state; it is a creature of the state, made for specific purposes, to exercise, within a limited sphere, the powers of the state. The state may withdraw its delegated powers of government at pleasure, and may through its legislature govern the locality directly. It may enlarge or contract the powers of the municipality, or even destroy its existence, except only in those cases where there are constitutional limitations on the power of the legislature, as in Ohio or Illinois.

The European city, be it English or German, bears no such relation to the state, and the state has, generally speaking, no such absolute power and control over it. It bears the same relation to the state as American cities do only in the single fact that it is the organ to which the state delegates, by way of decentralization, the exercise of certain of its powers. In this country the city exercises these decentralized functions of the state, but its inhabitants have no right, as against the legislature, to conduct their own local common business as they will; whereas in the European cities, while the function of the state is exercised by the cities in the same general manner, the rights of cities as private corporations are practically if not constitutionally free from governmental interference or control. In

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this country the legislature deals at will with the public and private function of municipalities, as will be shown later. Abroad — generally speaking — it deals in this way with the public function only.

Having thus recognized the fact that the city is a part of the government of the state, and that in this country it is subject almost completely to legislative control, we have next to consider the fact "that there is habitually a kinship in character between the controlling systems of the parts and the controlling systems of the whole in matters of government, consequent on the fact that both are ultimately partakers of the same individual nature" (Spencer). Our city government not only derives its form and takes its color from our general system of government, but changes with the change in the general theory of government, and assumes new functions as the functions of the state itself are altered or subjected to modification.

In all early Teutonic societies there was, as between the freemen and the state, a maximum of natural liberty. In later and more complex society there is a minimum of natural liberty, and the complexity of modern government runs along the line of this change. Directly as the difficulty of government increases, because of the necessity for larger regulation, individual liberty is decreased. Complex modern society thus gives birth to a complex regulative government, and this new form leads, first, to a change of governmental function, and next, to a change of the manner in which the function is exercised. If space permitted, it would be interesting to discuss, merely for the purpose of pointing out the logical sequence, first, the history of the change of the functions of government; second, the history of the change of the organs of government, and, under this, the change of the fundamental form of the government of cities, and the history of the change of the relations of the cities to the states.

No better illustration can be given of the way in which the regulative function of society arises, than this which I take from Mr. Goschen's most admirable address on *Laissez faire and Government Interference:*

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As society becomes more complex, more crowded, as conflicting interests jostle each other more and more, so will the cry for more regulation become greater from day to day. Till some years ago the traffic in the streets of the metropolis regulated itself. The rules of the road were held to suffice; the stream of vehicles passed to and fro under a very wide application of *laissez faire* and *laissez passer*. But when blocks became more frequent, collisions more numerous, street accidents more and more a common occurrence, the cry arose for the police; society in the shape of two policemen stationed itself in all the important thoroughfares; coachmen were stopped, drivers directed, foot passengers assisted and refuges constructed. Freedom of passage ceased. The principle of liberty yielded to organized control. Similarly on the highways; in the industrial traffic and in the movements of society along its various tracks, it would appear that collisions became so frequent and accidents so numerous, complications, crowding and disputes so intolerable, that the police of the state were summoned at every turn; regulations, unnecessary and odious in the simpler state of civilization, not only became acceptable but were loudly demanded.

So much for the way in which the police functions of the state, and subsequently of the municipality as the delegate of the authority of the state, grow, and regulations become continually more and more necessary as incident to greater complexity of social life. In like manner, those functions of the city which grow out of its private, and certainly those which grow altogether out of its local character, have increased in complexity. This complexity has necessitated a large regulative control, which results in making it most difficult for the unanalytical mind to distinguish between these private functions of the municipality and the public functions of the state just alluded to.

As Mr. Goschen has afforded me a good illustration of the growth in complexity of the one function, so Mr. Simon Sterne has afforded me an equally good illustration of the growth in complexity of the other function:

Almost all the expenditure of the city government, the consequences of which are imposed as a burden upon property by way of assessment, were, in times not very remote, borne by property owners without calling upon the government to perform that function for them. Not a century ago most of the cities of Europe were not lighted, and persons who

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desired to enjoy the luxury of a light at night in the streets either employed servants to walk before them with torches, or, if they wished to afford easy access to their houses at night, they employed servants to stand with torches or hung up lamps before their houses after sundown. When the desire for lighting became general, the character of this service or function was not changed; only instead of each particular property owner bearing his own expense, the city was uniformly lighted and the expense borne evenly between the owners of property. At first it was only a few streets that were thus lighted, and the expense was borne by the inhabitants of those streets, and thus with paving, sewering and other matters strictly appertaining to matters of real estate, as contradistinguished from governmental functions.

These are things not commonly thought of. What proportion of our newspaper readers ever stop seriously to consider that the city has a general governmental function as the agent of the state, and a special governmental function as the agent of the locality? How many ever detect, and carry out to its ultimate logical conclusions, the bearing of this fundamental duality of functions on the forms that local government should assume? The city has two distinct functions which should be separated and distinguished as far as possible; two functions which have no necessary relation to each other and the performance of which involves two entirely distinct sets of considerations. The governmental function in which the city acts as the representative or delegate of the state, and the purely corporate function in which it acts solely and alone as the representative of its own citizens, should be clearly noted and contradistinguished before there can be any logical or really efficient organization of the municipal government. It is just because this is so rarely done by reform committees and legislatures that the municipal organization is so illogical and inefficient.

The history of the last century of government the world over is the history of the manner in which, as incident to the growing complexity of modern life, individual liberty has yielded to organized control; and this has gone on until modern society has acquired a taste for regulation, for control, for interference and for inspection, which has at last made the state, not only

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here but abroad, a great parental institution. As such it finds its strongest and most strenuous advocates in radical social democrats, with whom the state is stronger, more potent, more all-reaching in its power and effect than it was ever held to be by the strongest advocate of the authority of the state when it was organized upon the principle of the "divine right of kings." Regulation is extended on all hands. The state assumes to tell us what houses we shall build; how they shall be drained; how high they shall be built; of what material they shall be constructed; what industries we may carry on in them; within what hours our industries may be carried on; what persons we may employ in these industries and what persons we may not employ; what protection shall be afforded to our employees as against the machinery which we put into these buildings; what we may sell in them, and under what conditions our sales may be made both as to time and as to commodity; how our children shall be educated, — and a thousand and one other things that were undreamt of a century ago. The trust in the capacity of the state to exercise these numberless increased functions would never have been developed, and the exercise of them would never have been imposed upon the state, had not the organization of the state itself first undergone very material modifications, and had it not submitted to changes in the distribution of political power, which changes have produced coincident changes as to the manner in which the government is regarded.

While its functions have been increased, the state itself has ceased to be active in their performance, delegating them more and more to its subordinate parts, the governments of localities, — to what extent, is shown by the continuous proportionate increase of municipal debt and expenditure as compared with the indebtedness and expenditure of states and nations. If the state were itself to exercise all of the functions which it now assumes, the centralization of power would be so intense and so vast as to make it an insupportable tyrant, and the performance of its duties a complete and utter impossibility. All the mischief and all the dangers of this increase in the regulative

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agency of the state have been avoided, so far as possible, by a simultaneous and continuous decentralization of power; and the very departments and fields in which the regulative agency has increased most largely are those with regard to which the municipality can be most readily called upon to act as the delegate of the powers of the state. The mischief of centralization is thus avoided, provided only that the state permits the municipalities to exercise their delegated power without interference. In England, for instance, the decentralization of governmental functions exists exactly as it does here; but the functions of the municipality once determined, the English central government rarely, if ever, interferes with the manner of their performance; whereas in this country the benefits of this decentralization are largely lost because the legislature not only has absolute power over municipalities, but *exercises* this power continuously in the form of endless charter tinkering, — a practice which is due to every possible motive on the part of the legislature, good as well as bad, but more often bad than good.

Thus it is that the increase and change from simplicity to complexity in the functions of municipal government is incident to a like change in the functions of the central government; so that in this regard the former but follows the development of the latter and partakes of its general characteristics.

Now there is another regard in which this truth is most plainly discernible. It has come to be a grave question whether parliamentary government in a great country like ours has not become a practical impossibility. It is certainly true that to-day our national government is in no proper sense parliamentary, but has assumed the form of government by legislative committee. This is equally true of the state government; and it is so true of municipal government, where the difficulties of the democratic system are all intensified, that the parliamentary form has been almost completely abandoned. The original theory of local government in this country, as well as the original practice, was purely democratic. The theory of city government was in its origin distinctly unlike that of town government. The city is the creature of the state. The town

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is as old as the state. The citizens of the town met in annual town meeting, and there democratically did most of the common business themselves; voted the taxes, approved of projected expenditures, and then selected by direct ballot the few officers who were required to carry out their will and to execute their ordinances. As the town grew into the city, the town meeting was abandoned; the citizens no longer declared their own will or purpose as to the policy of their locality in point of general government or expenditure, but simply selected their officers, to whom, within certain limitations fixed by statute, the determination of all public questions was left. Chief among these officers was a representative parliamentary body, the board of aldermen or councilmen, as the case might be, whose will or ordinance took the place of the will or ordinance of the citizens gathered in town meeting, and became law. It then fell to the executive officers of the city to carry out the will of the representative body. It will be observed that the town meeting was replaced by the board of aldermen or councilmen, and that all officers whatever, whether legislative or executive, were still elected by the people. As the city grew larger, however, the legislative body was deprived of its functions; so that to-day, in cities like New York and Philadelphia, the board of aldermen has so little legislative power left, and the representative parliamentary system has been found so faulty, that this organ of local government is hardly more than a survival. Simultaneously with this change, the people have ceased to select any of their own officers except the most important; the heads of the great commissions, the real administrative officers of the city, being selected by the chief executive.

To illustrate the extent to which this subdivision of functions has gone, let us see what is the actual organization of the greatest city in the country. It is a marvel of complexity, no worse in this regard than the government of Berlin or Vienna or Paris, and not half so bad as that of London, but nevertheless very far from perfect. Governmental and private corporate functions are everywhere lodged in the same hands; and the state legislature finds this fact alone a justification for continuous

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interference. The two great divisions of function are legislative and executive; for, properly speaking, there are no *local* judicial functions, all really judicial officers other than those with mere police jurisdiction being servants of the state and not of the city. The legislative function has almost completely disappeared, for reasons which we shall examine later. Such remnant of it as there is, is supposed to be vested with the board of aldermen, although both the board of health and the board of fire commissioners have an ordinance-making or legislative capacity. Such power as the board of aldermen has, — except in the matter of granting public franchises, which is not a real legislative function at all, — is confined to the granting of licenses of divers kinds, to a certain limited control over the streets, and the internal domestic or private police of the city. All actual legislating for the city of New York is done in Albany. This is why the board of aldermen has fallen into disrepute; why its *personnel* is of comparatively little interest to the electors; why it always is filled with incompetent and sometimes with dishonest men, who, when they find great public matters like that of the Broadway franchise falling within their jurisdiction, have neither the moral nor intellectual force to defend the interests of the city. Another fact to be borne in mind here is that the aldermen are the representatives of localities, and that their character is almost entirely attributable to the decay of the locality sense or neighborhood feeling and the fact that the city of New York has in our day come to be a single great commune. This, for instance, is not the case in the city of Berlin, where in many respects the local division which corresponds to our ward or assembly district really conducts those of its affairs which are strictly or intimately local. This can be said of New York city with regard to nothing but the school system, which is controlled, so far as details are concerned, by the boards of ward trustees. The neighborhood feeling has thus been almost completely lost, and nothing remains but a single great commune, whose parts are indistinguishably merged in the whole. This tendency is the result of natural conditions; but it has been greatly accelerated by legis-

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lation, and particularly by the adoption of the assembly district, which is a state political division and which changes from time to time, instead of the ward, which is the true municipal political division, as the unit of representation in the local legislative body. So much for the board of aldermen. All sanitary legislation is lodged in the board of health, whose ordinances have the force of law; and all legislation with regard to buildings other than such as concerns matters purely sanitary, emanates from the fire department; and each of these boards in legislating exercises a double function, both as a part of the regulative government of the state and as a part of the corporation of the city.

The executive function is exercised in two ways: directly, by officers chosen by the people, and indirectly, by their appointees. The mayor and comptroller are the only elective executive officers. The mayor appoints all heads of administrative departments; has the power of vetoing the ordinances and resolutions of the board of aldermen; and has the direct control of and responsibility for a part of the internal police of the city. Thus he appoints all the employees in the bureau of permits and the marshal's office; and all licenses granted under general ordinances, such as those for pawnbrokers, auctioneers, second-hand dealers, venders, cabs, hanging-signs, gutter-bridges, dogs, *etc.*, are issued in his name. He is a member of the board of estimate and apportionment, the sinking-fund commission, the board for the selection of grand jurors; a commissioner of the Brooklyn bridge, an armory commissioner, and a magistrate possessing the powers of a police justice; a member of the board of city record, and a commissioner of emigration. He is also responsible for the dog pound, and was, until recently, an aqueduct commissioner. He is removable by the governor. This medley of functions and duties is the result of years of legislative changes and so-called reforms, which have left the mayor's office a sort of political junkshop, where all sorts of executive and administrative odds and ends are to be found, some of which are of great present value, like the membership in the board of estimate and apportionment, and the sinking-fund com-

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mission, and some of which are in a state of decay or desuetude and almost forgotten, such as the right to act as a police magistrate.

The indirect executive functions are all in commission, and exercised chiefly by officers appointed by the mayor. These functions may be divided, as has already been pointed out, into public and private, — or, better still, governmental and corporate, — as they relate to matters falling within the delegated power of the state as a part of the general police, or to the welfare and business of the city as a business corporation. The governmental or public business functions are vested in the boards of education, police, excise, charities and corrections, health, fire, the police justices, the board for the selection of grand jurors and the commissioner of jurors. The county clerk and sheriff, like the elective judiciary, with the exception of the register, are all state officers simply; whereas, of the others just named, some are in part state, in part local officers, like the excise commissioners and the board of health, and all exercise both governmental and corporate functions. The corporate or local business functions are lodged in the finance, tax, law, dock, street-cleaning, and park departments, the department of public works and the sinking-fund commission, — all of which, except the sinking-fund commission, also exercise certain general governmental functions.

Returning now to a consideration of the distribution of the general governmental or public administrative functions, we will consider first the board of education. It consists of twenty-one members appointed by the mayor, for a term of three years, seven members going out each year. This board has the general control of the school system. There are twenty-four boards of ward trustees, consisting of five members each, and with a term of five years, one member going out of each board annually. The school trustees appoint all teachers except the principals, and have the immediate supervision and direction of all schools except the Normal College, the College of the City of New York, the Evening High School, and the Nautical School, which are governed directly by committees of the board of edu-

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cation. The school trustees are appointed by the board of education, and the school inspectors, of whom there are twenty-four, three for each of eight districts, with a term of office of three years, one in each district retiring annually, are appointed by the mayor.

The public administrative police may be divided into protective and judiciary. The judiciary consists of the register and city judge, who are elective, and the police justices, who are appointed by the mayor. There are eleven of the latter, and their term of office is ten years. They are removable by the court of common pleas.

The protective police may be divided into criminal, punitive, sanitary, and fire. The criminal police is directed by the board of police, consisting of four members with a six years' term. They are appointed by the mayor and removable by him after approval by the governor of the state. The punitive police is in the hands of the board of charities and corrections, consisting of three commissioners whose term of office is three years. They are appointed by the mayor, and removable by him on the governor's approval. The same is true of the fire commissioners, who are three in number. The health board consists of four members, two of whom are appointed directly by the mayor with six-year terms, and are removable by the mayor on the approval of the governor. The president of the police department and the health officer of the port (who is appointed by the governor) are *ex officio* members of this board.

There is a public administrative function other than its police function, which is exercised by the board of charities and corrections, in the administration of the public charities.

The excise board, which has the granting of all licenses to sell spirituous or intoxicating liquors, consists of three members with a term of three years, appointed by the mayor, and removable by the governor.

The commissioner of jurors, who has no functions which are properly disconnected from the state government, is appointed by the mayor and removed by him subject to the governor's approval.

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The private or corporate business functions are those which relate to public works, the public property, and the civil service, as well as the work of financial control.

The public works department is in the hands of a single commissioner appointed by the mayor and removed by the mayor and governor. His term is four years. He directs all street lighting, opening and paving, and the sewerage system for Manhattan island. All of this work except lighting is done for the 23d and 24th wards, which are territorially about as large as Manhattan island, by the park department. The commissioner of public works has the direction of the Croton reservoir and aqueduct and the entire water system of the city, as well as of all public buildings, such as the city hall, police courts, markets, *etc.*, which are not under the control of the police, fire, and health boards, or the board of education or the department of charities and correction. A part of the public work, *viz.*, that which refers to laying electric wires under ground, is in the hands of a commission of three appointed by the governor alone; while another part, which refers to the cleaning of the streets, is in the hands of a single commissioner of street cleaning with a term of six years, appointed by the mayor, subject to the approval of the board of health, and removable by the same authorities.

The park department which, in addition to the management of all public parks, has control of the public work in the 23d and 24th wards already referred to, consists of four members with terms of four years, appointed by the mayor.

The revenue-yielding public domain, such as lands, docks, and ferries, falls within the jurisdiction of the sinking fund commission, while the comptroller is charged generally with the collection of the city revenues.

The sinking fund commission consists of the mayor and the comptroller, both local officers elected by the people; the recorder, a judicial officer also elected; the chamberlain, appointed by the mayor; and the chairman of the finance committee of the board of aldermen. This is the oldest board except the board of aldermen in the city government, dating back to 1813.

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The dock department consists of three commissioners appointed by the mayor for six years and removable by him on the governor's approval. It has general control of the water-front of the city, subject to the commissioners of the sinking fund in all matters of general administration, such as the erection and leasing of piers and wharves, and the improvement generally of our water-front system.

The law department is in the hands of a corporation counsel appointed by the mayor for four years, and removable by the mayor and governor.

The finance department is presided over by the comptroller, who is elected for a term of three years, and who is removable by the governor.

The board of estimate and apportionment appropriates the moneys for all city purposes and places in the budget the sums required to be raised by statute, or as the city's quota of the cost of the state government. It consists of the mayor, comptroller, president of the board of aldermen, and president of the board of taxes and assessments.

The board of taxes and assessments consists of three members appointed by the mayor, and removable by him on the approval of the governor. The term of office is six years. It has no taxing function, its sole duty being to assess the real and personal property in the city, which it does for both state and municipal purposes. The technical taxing power is in the board of aldermen, which passes the tax levy without discretion after the estimates and appropriations have been made by the board of estimate and apportionment, and the assessments have been made and a tax rate determined upon by the board of taxes and assessments.

The chamberlain has control of the city's moneys, and is the chief disbursing officer. He is appointed by the mayor and may be removed by him with the governor's approval. His functions, except in so far as regards his membership of the sinking fund commission, are those of the treasurer of the city and the custodian of court moneys.

The commissioners of accounts, two in number, are appointed

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and removed by the mayor at pleasure. Their duty is to examine all city accounts, and generally to direct the system of municipal book-keeping. They have the power to investigate, on their own initiative, the administration of any department or officer, can compel the attendance of witnesses and examine them under oath.

The civil service commissioners, who direct the methods to be employed in examining applicants for appointments in the civil service of the city, are appointed and removed by the mayor.

This analysis and review of the system of government of the city of New York is necessarily short, but it serves sufficiently to show the complexity of the machine, and its want of logical arrangement.

The historical cause of this form of government may be one which sprang out of the worst possible motives, but it is nevertheless not to be escaped or avoided, and above all things it cannot be left out of consideration. Thus the charter of the city of New York under which we are to-day living, is in reality the creation of William M. Tweed. It is not the identical charter which he drafted and passed to attain his own ends; but it is that charter only slightly modified. He knew the tendency of the state to put the executive and administrative offices into commission, and he saw how to turn that tendency to his own advantage. He may or may not have seen or known how far we had drifted away from the town meeting idea, or how rapidly we were abandoning the parliamentary idea; but he accelerated the movement so far as this city and all other cities in this state were concerned, in spite of the fact that everything he did was but a means to an end, and that end, public plunder. He found a board of aldermen and a board of supervisors. This was one board too many; so he had laws passed which practically put all power in the hands of the board of supervisors. He then organized this board in such a way as to make it do his bidding for a price. The legislature of the state at that time made the budget for the city; and he was able, generally speaking, to get the legislature to make such appropriations as he was willing to

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pay for. But these two legislative bodies became too expensive; and he bought one of them not only to destroy the other, but to commute once and for all its own price; the first by putting the government in the hands of commissioners to be appointed by the mayor, and the second by vesting the budget-making power in the board of estimate and apportionment, only one member of which, the mayor, was as such directly elected by the people. Then he elected his mayor, dictated that officer's appointments, and selected from among the aldermen some one to be president — and the government was his. All of the members of this board except the president of the tax department are now elected by the people.

When the charter of 1873, which is our charter to-day, was passed, these leading features were all retained; notwithstanding the fact that they were the devices of fraud, and that by means of them Tweed first drained the treasury and then exhausted the credit of the city, stealing, through the use of that credit, from this generation instead of his own, and throwing the community off its guard by an apparently low tax rate. If it be asked why these features of the charter were retained, it can only be answered that it was because they were in the line of a general and universal tendency, and because the old system was quite as much to be feared as the new. Conservatism and the fear of radical change also had much to do with it. A further cause was that the whole matter was experimental and subject to partisan views and the necessity for compromise. The result is that the charter, under which the city is to-day governed, is the product of causes which have no connection whatever with any reasoned theory of the tendencies and needs of municipal government; and that the hundred and one changes that are proposed by every legislature spring only out of the desire of parties and politicians for prestige, revenge, advantages, or what not.

Now, to recur to the point, for the purpose of illustrating which this excursion has been made, we have to recognize that all of these changes have been necessarily incident to the changes of the general functions of the govern-

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ment, both in state and municipality, and to the necessity for greater complexity of organization in municipal government, which complexity has rendered it impossible for the citizens, through the exercise of the franchise, to take part in the selection of more than a few of the numberless servants of the people. The citizens have been deprived of the right to determine their general policy by the legislatures of the states, and of the opportunity to select their own officers by the necessity for administrative responsibility.

Any change of our form of government which disregards these general tendencies is sure to produce more harm than good. The main points are consequently to determine what changes can be made so as most perfectly to realize the necessities of these tendencies, and to harmonize the existing system with them.

The first necessity for reform is in the relations between the city and the state. In order that we may be safe from the mischiefs of centralization, so far as the police functions of both state and city are concerned, there should be a constitutional limitation, first, upon the power of the state, which will prevent its discriminating among cities and which will require the enactment of general charters, under which all cities shall be governed, and a modification of which, as applied to any city as distinguished from the others, shall be impossible; second, restraining the legislature from interfering with the rights of localities to determine their own wants and the way in which those wants shall be satisfied. Apart from all questions of general government and police, the municipality should be absolute master of its own private concerns; and the state legislature should be deprived, by constitutional provision, of all power of interference. These changes would bring into existence the fundamental conditions, if not of good government, at least of the best possible government under our form of society.

This reform being accomplished, the second is the devising of a proper form of charter for cities, and here we encounter numberless details. One that stands out clear and prominent

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is the necessity for the concentration of responsibility, and the simplification of public issues. Admitting that administrative commissions must still exist and that government by commissions is most conducive to good results under our present social form, the chief executive who has the appointment of these commissions should also, to avoid the possibility of his escape from responsibility, have the power of removal, thus putting an end to the term system, except for elective offices.

This leads us to the third reform, which is a reform of the civil service in detail; first, by according to all heads of departments the power of removal, and second, by limiting their power of appointment to a right of selection from among those only who are fit and whose fitness shall have been determined by examining boards properly chosen. The work of such boards can never result in the selection of the fittest, but it can result in the rejection of the unfit. The civil service reform system thus carried out in detail would put an end to the spoils system in politics. The advantages and desirability of the machine and of the machine politics as a means of livelihood would thus gradually come to an end; and coincident with their waning influence there would grow up a continually greater freedom of individual action in the exercise of the elective franchise, which, in its turn, would result in the selection of better men to fill the elective offices.

The chief danger incident to the continually increasing functions of government both in the states and in municipalities is the ever-growing army of public servants. If they are capable and honest, we have but little to fear. If they are incapable and dishonest, we have everything to fear; and it is because we fear our army of office-holders that conservative men look upon the paternal and regulative tendency of governments with undisguised dread. But the tendency exists, nevertheless, and it is useless to hope to secure reforms by striving to turn the inevitable drift of events. The wise thing is to recognize it and accommodate ourselves to it. For all subordinate offices

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the term system should be abolished. The civil service must be taken out of politics, and all appointments determined solely by competency. When the civil servants shall no longer be a cause of public uneasiness, and our governmental conditions shall have been conformed to the tendencies of modern social life, the main problem will have been solved. It is a work of years and may not be accomplished in this generation or the next, but I have no doubt of its ultimate accomplishment; and not until it is accomplished, will the problem of municipal government, the most serious problem of modern society, be finally solved.

WILLIAM M. IVINS.

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THE "CULTURCONFLICT" IN PRUSSIA.

THE proper point of departure in the study of this subject is the Prussian constitution of 1850.[1] It guaranteed, in articles 12, 13, 14, 15, 16, 18, and 24, the freedom of conscience, of public and private worship, and of association into religious bodies, under the limitations only that such freedom should not be so exercised as to violate any of the civil and political duties of the subject, or assert corporate rights without special legislation. It declared that the Christian religion should be employed in all those civil transactions with which religious ceremonies are usually connected, without any violence, however, to the religious freedom of the subject; that the Evangelical and Roman Catholic churches and every other religious association should order and administer their affairs independently, and should remain in possession and full enjoyment of all the establishments, endowments, and funds used by them for religious services, education, and charity; that intercourse and communication between the religious associations and their ecclesiastical superiors should be free, and that the publication of church ordinances should be subject only to the same limitations as publication generally; that the right of the government to nominate, appoint, or ratify the election of church officials should be abolished; and that the religious instruction in the public schools should be directed by the religious associations concerned therein, — *i.e.*, the Catholic children should be instructed in religion by the Catholic clergy, the Protestant children by the Protestant clergy, and the Jews by their Rabbis.

This comes nearly up to the modern view of the relation of civil government to the church. It asserts the sovereignty, absolute and exclusive, of the state over the church or churches. It regards the churches as purely private associations. It pre-

[1] Verfassungs-Urkunde für den preussischen Staat, vom 31. Januar, 1850.

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sents the state laying out in the constitution the domain of autonomy for the individual conscience and for the churches as against the government, and it makes that domain co-extensive with the entire sphere of religious actions and transactions.

Many of the historians and publicists of the present day regard this constitution as having been reactionary. They claim that these provisions were enacted through the desire of the king to win the favor and influence of the Catholic clergy in the government of his Catholic subjects, and that, by the abolition of the *placitum regium*, the royal government surrendered its weapons of defence against the encroachments of ultramontanism. From the standpoint of the present, we must admit that these provisions were based upon a very optimistic view of the situation. They were the modern solution of the whole question, and the true solution for the moment, provided only the church *was* a purely private association and refrained from making any attempt to employ civil or political powers or to hinder the government in the execution of the laws or to limit any one in the enjoyment of his civil and political rights or to hinder any one in the performance of his civil and political duties. The question upon which the prudence or imprudence of these measures depended was whether the Roman Catholic church was any such institution and animated by any such spirit. It claimed to be. Its bishops used these very arguments before the Prussian king to move him to accord to them this fulness of religious liberty; and when we read in the bill of rights[1] of the famous German constitution of 1849, which was framed at Frankfort by the national popular assembly, but failed of adoption through princely opposition, the same provisions almost in the very same words in regard to this subject, then I think we must conclude that the king had reason to feel that through the changes from 1789 to 1848, the church had been brought very near to this situation, and that it was the wise, safe, and timely thing to recognize the fact with all its appropriate consequences. I would judge the king's convictions and motives with more charity than his radical critics have done. But no matter

[1] Grundrechte des deutschen Volks, art. v.

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what may have been his reasons and his purpose, one thing is certain,—that with this constitution Prussia became emphatically the leader of continental Europe in heralding the modern views upon this subject and in daring to risk their application.

Then followed, thick and fast, the crises which brought Prussia face to face with the papacy in the struggle for the maintenance of the modern order. In 1859 France completed her preparations for driving Austria out of Italy. The rapid and astonishing success of the French arms from Montebello to Solferino reminds one of the campaign of Marengo. Austria was driven back into the famous quadrilateral, which protected only the Venetian territory. One more victory here would have made France undisputed master of Italy. At this critical moment Prussia began pushing her army corps toward the French boundary. The Emperor Napoleon understood the threatening movement. He must give up his plan for supremacy in Italy. He quickly made peace with the Austrian emperor, withdrew his forces and left all Italy, except Rome and Venice, an easy conquest to Sardinia. Then in 1866 the two great modern powers of the north and the south, Prussia and Sardinia, in alliance drove Austria entirely out of both Germany and Italy, leaving Venice with the Italian kingdom of Victor Emmanuel, and opening the way for Prussia to organize a national Germany. Austria, deprived of her Italian possessions and having surrendered all hopes of an Italian supremacy, had now no further need of her papal policy. She violated her concordat without any regard to papal protests, and the state resumed its sovereignty over the church; while Napoleon turned his back also upon his papal ally by withdrawing from Rome the French garrison which alone defended it against the Sardinian-Italian king. Under this pressure, deserted by both of their powerful friends, the pope and the Jesuits determined upon the consolidation of the whole power of the church in a single hand, hoping by this means to be able to stand alone against the assaults of the modern state and the modern civilization. They accomplished the complete suppression of the episcopal independence and established the absolute monarchic powers of the pope by

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the Vatican decrees of 1870. The pope was now dictator. The church had assumed its military organization. In the selfsame moment the French empire, the last hope of the papal church, fell before the Prussian arms, and the Italian king took possession of the holy city itself. Whither now could the pope look — Austria indifferent and selfish, France vanquished, and Italy hostile and determined upon the realization of her nationality? The night of despair settled down upon his soul. Suddenly a star of hope appeared above the horizon. The victorious German princes gathered at Versailles were re-establishing the German empire under the hegemony of Prussia, — that Prussia which, though Protestant, had given the Roman church full freedom upon her soil. The vision of the old Holy Roman Empire of the German nation, with its ecclesiastical foundation, relations and purposes, swept before the imagination of the pope. He confounded it with the new creation at Versailles. He reasoned that as Charlemagne and Otto had defended his predecessors against the Lombards, so now would the new emperor protect him. And so he sent his agents to the new emperor and demanded of him protection against the Italian king.[1] To his surprise they were waved aside and told that the new empire was a purely secular organization and had no Roman politics or ecclesiastical purposes. Mortification, chagrin, and anger filled the soul of the pope and the ultramontane clergy at the rebuff. The new empire must be crushed, was the word passed round before the emperor was back in his own capital. The Jesuits and the Catholic clergy generally, even those who had opposed the Vatican decrees, began a most active agitation against the new empire in the most critical moment of its existence — when occupied with the original foundation of its institutions. They exercised all their influence over the people to discredit the imperial government, hinder the execution of its laws, and provoke a reaction against the national system. So open and violent were these excitations to revolt that the imperial legislature (the *Reichstag*), on the motion of Catholic Bavaria, felt compelled before the end of the first year

[1] Schulthess, Europäischer Geschichts-Kalender, 1870, S. 121; 1871, S. 71.

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of its existence to take the subject in hand and to pass a law pronouncing the abuse of the spiritual office for arousing political agitations dangerous to the public peace to be a crime, subject to punishment by imprisonment for a period of two years.[1] This act caused the cessation, largely, of public harangues of a seditious character from the chancel, but it became immediately manifest that secret influences were at work, which if unchecked would ultimately lead to rebellion. The source of these influences was also quickly recognized. It was the unnational Jesuit order, which had re-established itself everywhere in Germany after 1850, and which was now bent upon securing the proclamation of the Vatican decrees from the chancel without the permission of any of the governments and contrary to the orders of some of them.[2] Their success in prevailing upon the bishops to this act of resistance proved their destruction so far as Germany is concerned. The imperial legislature passed the law of July, 1872, closing their establishments and banishing them from the territory of the empire.[3]

But the brunt of the battle necessarily fell upon the separate states. We know that since the peace of Augsburg, the regulation of the relations of civil government to the church in the German system had been regarded as belonging to the individual states.[4] The new federal imperial system of 1871 did not materially change this status; and if the states must deal with the church separately, Prussia must go to the front, since she was the great and leading state of the union, and by her free constitution of 1850 had bared herself more completely than any other to attack. Already before the imperial statute banishing the Jesuits had been passed, Prussia had begun her defence.

Her first move was the abolition, by royal order of July 8, 1871, of the separate division of the Catholic church in the ministerial department for worship and education, which since 1841 had furnished the Catholics with a foothold in the very

[1] Schulthess, Geschichts-Kalender, 1871, S. 231 ff.
[2] *Ibid.*, 1871, S. 121, 135.
[3] *Ibid.*, 1872, S. 164.
[4] Instrumenta pacis Westphalicæ, instrumentum Osnabrugense, art. v, §§ 1, 16.

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centre of the government itself.[1] Thereafter, one undivided department should deal with all church questions, Catholic or Protestant.

The second step was the enactment, by the Prussian legislature (*Landtag*), in February, 1872, of a law[2] defining and fixing the power of the government in the exercise of the rights of state supervision over the schools, provided for in article 23 of the constitution, which reads: "All public and private educational institutions are subject to the supervision of magistracies appointed by the state."[3]

The immediate occasion of this statute was the procedure of Bishop Krementz of Ermeland, and Archbishop Melchers of Cologne, in reference to the teachers of religion in the gymnasia and the professors in the theological faculty of the university at Bonn. The custom of the Prussian administration in regard to the appointment of the teachers of the Catholic children in the gymnasia and other public schools, and of the Catholic professors in the theological faculties of the universities, was to act in concert with the bishop of the diocese in which the particular school, gymnasium, or university was located. The teacher or professor held his office, however, entirely from the government, and the bishop had no control whatever over the tenure once established. When, in the course of the year 1871, the bishops published the Vatican decrees and demanded that the lower clergy should subscribe to them under pain of excommunication, Dr. Wollmann, teacher of religion to the Catholic children in the gymnasium at Braunsberg, in the diocese of Ermeland, and four of the Catholic professors of theology at Bonn, in the archdiocese of Cologne, refused. The bishop of Ermeland thereupon excommunicated Dr. Wollman, and undertook to inhibit him from teaching religion in the gymnasium. The archbishop of Cologne likewise excommunicated the four professors, and forbade Catholic students of theology from attending their lectures, and demanded from

[1] Schulthess, Geschichts-Kalender, 1871, S. 186.
[2] *Ibid.*, 1872, S. 55.
[3] Verfassungs-Urkunde für den preussischen Staat, 1850, art. 23.

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the minister of worship and education their dismissal from office.

The actions of these prelates were, in two respects, violations of the laws of the state. First, they had no right whatever to meddle with the tenure of the officers in question, who held directly by state appointment, and could only be dismissed or suspended from office or inhibited from the exercise of their functions by the government. Melchers did not go so far as Krementz upon this point. He did not issue a direct decree of suspension himself, but he demanded it of the government in language which indicated that the government had no discretion in the matter at all. Second, the Prussian laws had long forbidden the issue of the ban of excommunication by the Catholic bishops against Prussian citizens. The Prussian jurists long ago discovered that there was a civil as well as a churchly element in the Roman Catholic doctrine and practice of excommunication. While they did not dispute the right of any association to expel a member, they regarded the attempt of the head of the association to prohibit business and intercourse with the expelled member as an invasion of his civil rights, *i.e.*, of those rights guaranteed to him by the state and under the protection of the government. More than fifty years ago they had discovered the true nature of this act as a boycott, and had secured the enactment of laws forbidding it. The minister reminded the prelates that they were law-breakers;[1] and in the dispute which followed, they finally told him that they would obey the laws of the land only in so far as they did not conflict with the canon law.

Of course the state could now no longer permit any interference of the bishops with the schools. The new law removed their influence entirely, subjected the schools to the supervision of officers appointed solely by the government, and affirmed the principle that all teachers in the public educational establishments hold solely by the tenure of state appointment.

It was an ominous fact that the most obstinate resistance to the laws of the state came from the Polish provinces. This was cleared up when, in the course of the year 1872, it became

[1] Schulthess, Geschichts-Kalender, 1871, S. 76.

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known that the pope had appointed Count Ledochowski, the archbishop of Posen, primate of Poland. A primacy of Poland presupposed, of course, a state of Poland, which as a fact did not exist; and the motive of such an act on the part of the pope could only be to keep alive the spirit of Polish independence, *i.e.*, to keep alive the spirit of rebellion against Prussia, Russia, and Austria, between whom the Polish territory had been divided.

It was clear now to all that the church had not only assumed its military constitution, but had declared war against the modern state. Prussia found herself in a state of defensive war. Of course the first thing and the indispensable thing in this state of affairs was for her to suspend or modify those clauses of her constitution which gave to the church such broad and entire liberty, — and which were calculated only for a status of complete peace and harmony between the government and the church, — in order that the government might, without infraction of the constitution, create and employ means of defence necessary to overcome and disarm the enemy. With this in view, the Prussian Landtag, following the method prescribed in the constitution for amending the same, changed articles 15 and 18 so as to read as follows:

> The Evangelical and the Roman Catholic church, as well as every other religious association, shall administer freely its own affairs, *but remain subject to the laws and to the legally regulated supervision of the state.* Each religious association shall *in the same measure* remain in possession and enjoyment of the establishments, endowments, and funds devoted to the purposes of religious services, education, and charity.
>
> The right of the state to nominate, appoint, or ratify appointment or election to ecclesiastical positions is hereby abolished, unless the right rests upon advowson or some other particularly vested title. This provision shall not extend to the appointment of chaplains in the army or clergymen in other public [*i.e.*, governmental] establishments. *Otherwise, the functions of the state in reference to the education, appointment, and dismissal of the clergy and the servants of the church, and in reference to the limits of the disciplinary power of the church, shall be regulated by legislation.*[1]

[1] Schulthess, Geschichts-Kalender, 1873, S. 111. Von Holtzendorff, Jahrbuch für Gesetzgebung . . . des deutschen Reichs, 2. Jahrgang, S. 351 ff.

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These new clauses contain the assertion of the sovereignty of the state and the supremacy of its laws over the church, and vest in the legislature full power to assign the church to its legal position and fix its legal relations to the government.

The Prussian jurists and statesmen now distinguished the objects to be accomplished, in ultimate generalization, under two heads. The first was to deprive the church of those remnants of civil power which it still exercised, and which were a constant temptation to the bishops in the direction of the restoration of the lost powers generally. The second was to create in the future clergy a spirit of loyalty and patriotism and to give them a culture corresponding to the principles of the age, so that they would of themselves cease to claim temporal power and would confine themselves to purely religious functions.

As means to the first end, the Landtag enacted, in May, 1873:[1]

(1) That no clergyman or church officer or servant should inflict, or proclaim or threaten infliction, upon any person, of any penalties, except such as were of a purely religious character; and not even these when the act sought thereby to be punished or prevented was done or should be done in the discharge of a civil or political duty or in the free exercise of the right of suffrage; and that they should pronounce no penalty in a public manner.

(2) That in the administration of the church discipline by the higher clergy over the lower, corporal punishment must not be employed; that deprivation of personal liberty could extend no further than to an assignment for three months to a regular correctional institution, and could not be inflicted at all against the will of the person affected; that in the infliction of fines, the amount must not exceed thirty thalers or the monthly salary of the person affected; that penalties touching the liberty or property of a person could only be inflicted after hearing the defence of the accused; that removals from office

[1] The "The May-Laws" are reprinted in Schulthess, Geschichts-Kalender, 1873, S. 36 ff., and in von Holtzendorff, Jahrbuch für Gesetzgebung des deutschen Reichs, 2. Jahrgang, S. 353 ff.

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should be accomplished only through regularly fixed process; that in all cases the judgment should be written and contain the reasons for the decision; that the president of the province in which a church correctional institution is situated should have supervision over the same, and should be able to obtain information from the director of the institution concerning its administration by the power to inflict a fine to the amount of one thousand thalers in case of resistance or negligence; that the clergy could call upon the state for aid in the execution of their disciplinary judgments only when the president of the province should declare the judgment capable of execution by the state; that the disciplinary power should be exercised only by German church magistracies; that a royal court for ecclesiastical affairs, consisting of eleven members appointed by the king for life, six of whom must be regular judges, should be established in Berlin, to which appeal should lie open by persons suffering judgments from the disciplinary magistracies of the church contrary to the constitution and laws of the state, and which should give judgment in final instance in all cases which it might determine to be subject to its jurisdiction; and that the state officers should have power to interfere and compel the obedience of the church officials to the foregoing legislation, without appeal being made to them by the persons affected through violation of the same.

(3) It was enacted that civil marriage should be obligatory and sufficient.[1]

As means to the second end; *viz.*, the creation of a spirit of patriotism and a modern view of things among the clergy, the Landtag enacted, likewise in May of 1873:

(1) That a spiritual office in the Christian churches could be conferred only upon a German citizen; that the qualification preparatory to the attainment of such an office should be successful graduation from a German gymnasium, three years of study in the theological department of a German state university, and the successful accomplishment of the state examination; that the minister of worship and education might permit

[1] This law was not passed until 1874.

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the three years of theological study to be pursued in a church seminary in any locality where no regular state theological faculty existed, provided, in his opinion, the course in such seminary corresponded in extent and character to that in the state universities, and that he must permit it when the said seminary shall have been established in accordance with this law with a curriculum of studies approved by the said minister; that the said minister should have power, in respect to the requirement of three years of theological study in a German university, to grant allowance for studies pursued in another department or in a foreign university; that the church-schools and seminaries in which the candidates for spiritual office might by the permission of the minister of worship and education, or by the provisions of this law, pursue their studies should be subject to special state supervision, and that the teachers in the same should have the qualification necessary for the attainment of corresponding positions in the state gymnasia and universities; and that the state examination, finally, should have special reference to philosophy, history, and German literature.

(2) That the ecclesiastical superiors should be required to report to the presidents of the respective provinces the names of the persons appointed by them to spiritual offices therein, or transferred from one office to another, or whose tenures should be changed from temporary to permanent; that these state officers should have power, within thirty days from the reception of such notice, to make objection to the appointment before the minister of worship and education, giving their reasons for the objection; that the ecclesiastical superior concerned should have opportunity for thirty days to answer the objection, after the expiration of which time the said minister should decide the question; that candidates rejected by the state officials authorized thereto should be punished with a fine of one hundred thalers in case they should undertake to exercise the functions of the office to which they had been appointed by their ecclesiastical superiors, and that the superiors themselves should be punished with a fine of from two hundred to a thousand thalers in case they should appoint any person to a spiritual office

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contrary to the provisions of this law; that no parish should be left longer than one year without a priest, and that the president of the province in which the said parish is located should have power to enforce the appointment of a priest by the ecclesiastical superior having that authority, under pain of withholding state salary from the said superior and fining him to the amount of a thousand thalers.

(3) In order to encourage the establishment of Catholic churches opposed to the Vatican decrees, the law provided that whoever might desire to free himself from his existing church relations and obligations should have only to make a declaration to that effect before a judge in his place of residence.

There can be no question that this legislation was entirely and strictly constitutional, as there can be no question that the constitution was in entire and strict accord with the principles of modern political science upon this subject. The criticism upon these statutes must therefore proceed from the standpoints of policy and capability of execution. The American mind will find no difficulty in approving the policy of any of them, except those referring to the education and appointment of the clergy. Our general view would undoubtedly be that those things are best left to the churches themselves. But we must remember that we have never had to deal with the difficulties which these measures were created to meet. No church has ever possessed any very dangerous measure of civil powers here, or made a really earnest and threatening attempt to gain them, or manifested a totally unpatriotic disposition or a determination to act in concert with foreign powers to overthrow the government. There is no doubt that the Roman Catholic church had put itself in this attitude against the German empire and the Prussian state, the creator of that empire, and had done so without any provocation from Prussia. It could not be argued that the tyranny of Prussia over the church had caused or occasioned this implacable hostility. Prussia had given the church, as we have seen, a most liberal domain of autonomy in her constitution, — we have never gone farther ourselves, — and not until the church declared war upon her did she modify in any manner

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this only too free status. Under the circumstances, I cannot condemn the *policy* of these measures, but I do see the innate difficulty of executing them. Their successful execution was made to depend upon a certain co-operation between the bishops and the state officials, which, it seems to me, ought not to have been counted upon even before subsequent experience proved the fact that it could not be. I think the Prussian legislators were deceived upon this point by the fact that the provisions of these laws were already contained in agreements between the pope and other governments. They do not seem to have sufficiently appreciated the point that things to which the church would consent, when based upon agreement, it would resist *à l'outrance* when decreed by the independent or, as the church would say, *ex parte* act of the state, *i.e.*, that the church would never admit the sovereignty of the state and the supremacy of the laws over it. The protest which the bishops made to the Landtag and to the king, before the bill became law, certainly gave full warning as to what attitude the prelates would assume. It declared outright that the state is not sovereign over the church, and that the laws of the state are not obligatory upon Catholics when they come into conflict with the canon law.[1] But the feeling of patriotism and the consciousness of power on the part of the Prussian leaders were at a high point in 1873, and they undoubtedly believed that the Catholic laity and perhaps the lower clergy would largely support the government in this conflict with the pope and the bishops. These men of high endowment and culture forgot, for the moment, the manner in which the slow and cramped intellect of the peasant and the artisan works. They forgot that such minds cannot conceive of religion or grace except as conferred by a regularly ordained priest, and that the first results of a disturbance of the existing order of things would be a distress and confusion of conscience and a dissoluteness of character.

The attitude of the bishops was especially hostile to those provisions of the bill having reference to the education and appointment of the clergy. It was evident from the outset that

[1] Schulthess, Geschichts-Kalender, 1873, S. 56 ff.

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resistance to the law would touch these points first, and that upon these points the resistance would be most obstinate and continuous. There is no doubt that the successful execution of these provisions would kill the ultramontane church in Prussia and make the Catholic church in that state a modern national institution. Let the rising clergy come out of their cloisters into the light and air of modern thought and science, and you have the beginning of the end of Vaticanism. It was most natural then that the bishops marked this as the central point of attack, and planted themselves promptly and firmly before the officers of the law when it came to the work of execution.

Immediately upon the passage of the bill the bishops sent in a protest to the administration (May 31, 1873), declaring that they would not co-operate in the execution of the law and intimating that they were determined to resist its enforcement.[1] This was soon found to be no idle threat. They continued making their appointments, especially in the Polish and Rhine districts, without the slightest regard for the law. The government proceeded rigorously against them in the courts; the courts convicted and fined them according to the provisions of the law, and when they refused to pay their fines, levied upon and sold their property, and when no more property could be found, sentenced them to imprisonment. On the 14th of January, 1874, Archbishop Ledochowski of Posen was locked up; on the 7th of March, the bishop of Treves; on the 31st of March, the archbishop of Cologne; and on the 4th of August, the bishop of Paderborn. This only exasperated them in their rebellion. The government resolved to make an example of the stiff-necked Ledochowski. It directed the prosecuting attorneys to move before the high court for ecclesiastical affairs his deposition from office. On the 15th of April judgment was pronounced against him and the archbishopric declared vacant.[2] And now came the question: How should the vacancy be filled? The canon law, as we know, prescribed election by the cathedral chapter, and no law of the state had as yet modified this rule and practice. As might have been expected, the chapter re-

[1] Schulthess, Geschichts-Kalender, 1873, S. 141 ff. [2] *Ibid.*, 1874, S. 108.

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fused to recognize the vacancy. Minister Falk had already anticipated this difficulty from the bitterly hostile attitude of Archbishop Ledochowski, and on the 20th of January, 1874, had laid before the lower house of the Prussian Landtag a bill for meeting this case.[1] It provided that the law of May, 1873, in reference to the education and appointment of the clergy, should apply to the case of any person chosen to exercise permanently or temporarily the episcopal powers; that in case of a vacancy in the episcopal office caused by judgment of dismission, the president of the province in which the bishopric or archbishopric is located should call upon the cathedral chapter to elect a vicar; and if an election were not reported within ten days to the said president, or if the chosen person (provided he were not objected to by the said president) should not take his oath of office within the next fourteen days, that the minister of worship and education should appoint a commissary for the administration of the financial and property powers of the bishop and should withhold the state salaries from the members of the cathedral chapter until they should elect a vicar; that if during the period of the commissary's administration any spiritual offices in the bishopric should become vacant, those persons who by right of advowson or other special title had the power of nominating to the bishop persons for any such offices might *appoint* to the same under the prescripts and penalties of the law in reference to the education and appointment of the clergy; and that, if no person possessed any such right or title, the congregations concerned might elect persons to fill such vacancies under the prescripts of the law concerning the education and appointment of the clergy. This bill was passed by the Landtag, and on the 9th of June was proclaimed as law of the land.

It will be seen by a little scrutiny that the execution of the more important part of this law would depend upon the voluntary co-operation of the persons holding special powers of nominating church officers and upon the Catholic congregations which might be called upon to elect priests. This was again the weak spot in the law. It was certainly a good law. It

[1] Schulthess, Geschichts-Kalender, 1874, S. 45 ff.

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introduced the elements of self-government into the Catholic congregations — and there is no government so good as self-government, provided only the governed are capable of exercising it; nor is there anything which will so surely and truly develop that capacity as the actual exercise of power and responsibility, provided only the governed shall have reached a point in their general culture which will warrant essaying a beginning. The Prussian statesmen must have believed that their Catholic fellow-citizens had reached this point. Otherwise, I cannot conceive how they could have risked so much upon their co-operation. The result in practice we shall come to a little further on.

Meanwhile the empire had come to the aid of Prussia, and by an act of the imperial legislature, passed on the 25th of April, 1874, had authorized Prussia to deprive the rebellious clergymen of their German citizenship and banish them from the empire.[1] By ridding the state of their exciting presence the Prussian government calculated to restore and preserve obedience to the laws and loyalty to the state on the part of the Catholic citizens.

Toward the close of the year 1874 the conflict seems to have turned chiefly against the priests appointed to office by the bishops contrary to the prescripts of the law in regard to the education and appointment of the clergy. These persons undertook to exercise the priestly powers contrary to the law, and when driven from their usurped position by the authorities, returned again and again to harass the officers of the law and excite the people against the government. Their rebellious attitude and acts provoked the officials to arrest them, sometimes even at the chancel. It was a most painful and distressing, almost scandalous, state of things. The great struggle seemed to be degenerating into a petty warfare of the most undignified character. The government felt greatly embarrassed and was immensely relieved when the pope, on the 5th of February, 1875, issued a bull declaring the Prussian laws null and void, and exhorting the bishops to stand unshaken in

[1] Schulthess, Geschichts-Kalender, 1874, S. 114.

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resistance to their execution.[1] This act of the pope roused the national feeling of the German people to a high point again, and Prussia felt herself pressed onward by the public opinion of the nation to complete her legislation in reference to church relations and to execute it with vigor.

During the spring session of the Landtag five most important laws were enacted to meet the difficulties and fill the gaps which had revealed themselves in the execution of the laws of 1872 and 1873.

The first contained the answer to the pope's bull, and provided that all state pay should be cut off from the church officers and servants and all power to collect church taxes prohibited until such officers or servants should severally acknowledge their subjection to these laws.[2]

The second was a constitutional amendment, which abolished articles 15, 16, and 18 of the constitution, and thereby freed the legislature from every constitutional limitation in dealing with the relations to the church, and took the constitutional argument out of the mouths of the opposition in the Landtag.[3]

The third was a measure providing the abolition of all the cloisters and all the spiritual orders excepting only those wholly devoted to the care of the sick.[4]

The fourth was the measure, long considered, which vested the administration of the property of the Catholic parishes in bodies chosen by the laity itself, subject to state supervision.[5] This was the hardest blow which the hierarchy had as yet received. It was a thrust in the flank to which the bishops quickly succumbed. They saw at once that the measure was popular among the Catholic laity, in spite of the fact that they, the bishops, had pronounced it a violation of the most sacred rights and principles of the church, and that resistance to its execution would reveal too clearly a grasping spirit after worldly things. They were compelled by this move either to lose their popularity altogether or else give their consent to a real congre-

[1] Schulthess, Geschichts-Kalender, 1875, S. 408 ff.
[2] *Ibid.*, 1875, S. 69 ff.
[3] *Ibid.*, 1875, S. 95 ff.
[4] *Ibid.*, 1875, S. 119 ff.
[5] *Ibid.*, 1875, S. 50.

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gational organization in the domain of property administration. They wisely chose the latter as the lesser of the two evils, and as the one which might be most easily repaired. Those very personages most renitent in all other respects hastened to proclaim their obedience to this law, which with those in reference to the education of the clergy and the election of the priests by the congregation threatened the total destruction of ultramontanism.

The fifth measure of this session ordered the division of the property of the Catholic church between the "Old Catholics" —those who rejected the Vatican decrees of 1870 — and the ultramontane body.[1]

A statute of the following year placed the regular administration of the property of the diocese by the bishop under state supervision.[2]

At this point, the Prussian legislation upon the relations of civil government to the church was for the moment completed. The administration was furnished with every means which the legislature could confer to meet the ultramontane encroachment upon the civil sphere. Everything depended now upon a firm though considerate execution. Minister Falk proceeded earnestly with his work. He excluded the bishops from any participation in the choice of the teachers of religion in the public schools. He closed the church schools and seminaries which did not comply with the requirements of the May laws. He enforced against the bishops and the priests the provisions for the education and appointment of the clergy. He shut the gates of the cloisters. He divided the church property. He withheld the temporalities. But he could not make the chapters choose vicars or the patrons or congregations choose priests with any considerable degree of success. That was beyond the power of the government to effect by force; that depended upon the finer art of influence. To this the lower clergy and the laity must be educated; and they must be fully convinced, too, that the government would never back down and leave

[1] Schulthess, Geschichts-Kalender, 1875, S. 63 ff.
[2] *Ibid.*, 1876, S. 75.

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them in the lurch. By 1877, eight of the twelve Prussian bishoprics were vacant,[1] and about four hundred parishes were without priests. This was a critical state of things. If it continued, and certainly if it grew worse, it threatened to produce a confusion and dissoluteness in the religious and moral ideas and life of a third of the population of Prussia. It threatened to unchain a mass of ignorance and of vice which would prove the richest recruiting field for the social demagogues who were even then making extraordinary efforts to rouse the lower classes to violence against the ruling powers. Some of the Prussian statesmen began to feel that in the face of this new danger, a milder attitude towards the church would be the wiser policy. First, the more sentimental Lasker manifested a failing courage. Then even the cool, judicial-minded Gneist indicated his willingness to consider the question of revising the May laws. Minister Falk, however, stood firm; and the king supported him.

On the 7th of February, 1878, the mystical, fanatical Pius IX came to his end, and the practical, diplomatic Leo XIII was soon after elevated to the vacant place. It was a fortunate change for the Roman church. Leo soon found, however, that a change of papal policy must be effected with great care and deliberation. The surroundings into which he had come were intensely ultramontane, and could not be modified hastily. The new pope himself was thoroughly devoted to the traditions of the papacy, only he has great worldly wisdom. He knows how to accommodate himself to the inevitable; to take what he can get, and bide his time for getting more.

On the day of his election, February 19, 1878, he wrote to the German emperor and Prussian king that he regretted to find, upon his accession to the papal office, that the former friendship between his majesty and the papacy did not exist, and that he hoped it might be restored in the interest of the Catholic subjects of Prussia. The king answered the letter, March 24, 1878, expressing the desire on his part for friendly relations with the new pope, indicating, however, that obedience to the

[1] Schulthess, Geschichts-Kalender, 1877, S. 122.

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laws of the land by the Catholics was the necessary preliminary in principle to any understanding. The pope replied, April 17, 1878, repeating the expression of his hope for peace and good will, and designated certain laws of Prussia, the abolition of which would be necessary to further negotiations.[1] Before the king answered this letter occurred the attempts upon his life by the socialists Hödel and Nobiling. The wounds which he received caused him to place the royal and imperial powers temporarily in the hands of the crown prince. The prince was naturally a good deal embittered by the murderous assault upon his father, and in no mood for compromises. He replied, June 10, 1878, to the pope's letter of April 17, with great spirit and dignity, declaring that no Prussian monarch could give ear to the pope's demand for a change of the constitution and laws of the state to accord with the canon law of the Roman Catholic church; that the sovereignty and independence of the state could not be compromised by agreements with any foreign power; that though the conflict could not thus be settled in its deepest principle, he was willing to co-operate with the pope for the purpose of softening special hardships.[2]

This was the true attitude for the state; but the old king had been made to feel by the loss of his own blood that the time had come for all the conservative elements in the state to make peace. He felt now that the greater danger to modern civilization came from another side. The party upon which he had relied in the Landtag and in the Reichstag, — the National Liberal — was becoming radical, and breaking up into fractions. Representatives of socialism were making their way into the legislative bodies. The red internationals instead of the black were now the vanguard of the enemies of the state and civilization. The king now felt willing to negotiate with the pope. This was certainly the beginning of the retreat from the firm and independent position which the state had assumed at the outset. It is true that the idea was not to arrange the relations anew by means of a concordat. The method intended to be

[1] Schulthess, Geschichts-Kalender, 1878, S. 548 ff.
[2] *Ibid.*, 1878, S. 550.

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followed was the framing of a bill by the government [1] upon the basis of an understanding with the pope, which should be proposed, according to the usual course of legislation, to the Landtag for enactment as law. The *form* of state sovereignty and independence would indeed be thus preserved; but one cannot help feeling that in spirit the state would compromise itself by making an agreement with a foreign power the basis of its legislation in reference to the rights and duties of its own citizens. The king, however, had made up his mind to the sacrifice. In July, 1878, Prince Bismarck met the papal nuntio to Bavaria, as if by chance, at Kissingen, and began the usual diplomatic passes preliminary to an approach.[2] During the remainder of the year, and throughout the whole of the next, the negotiations were carried forward, off and on, without attaining any result, in spite of the fact that the Prussian administration softened its execution of the laws at every possible point.

In the early part of the year 1880 the government, irritated by the equivocation of the pope in directing the archbishop of Cologne that the Prussian law in reference to the appointment of the clergy could be endured and then withdrawing the direction, came back to its original ground of solving the question entirely independent of any agreements with the pope. It broke off negotiations and brought a bill into the Landtag asking for powers to suspend in part or whole the legislation in reference to the church at its discretion. The Landtag voted the bill, July, 1880, after great modification.[3] It provided that the government might admit a person to exercise temporarily the episcopal powers, without requiring him to take the oath of unqualified obedience to the laws of the state; that it might dispense with all qualifications except those of German citizenship in such a person; that the ministry, instead of the minister of worship and education alone, should establish the commissarial administration of the temporal affairs of a bishopric, and that it might at any time suspend or abolish the same; that the gov-

[1] By government I intend the administration.
[2] Schulthess, Geschichts-Kalender, 1878, S. 124.
[3] *Ibid.*, 1880, S. 196.

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ernment might resume the payment of the state salary in its discretion to any ecclesiastic without insisting that the bishop of the diocese should first take the oath of unqualified obedience to the laws of the state; that the ministers of internal affairs and of worship and education might grant to associations already existing in Prussia and devoted wholly to the care of the sick the right to erect new establishments, and might make to existing female associations devoted wholly to the care of the sick a revocable grant of the right to foster and educate children under the school age; that the care of the blind, the deaf, the dumb, idiots, and fallen women should stand under the same privileges as the care of the sick; that all new establishments founded under this law should be subject to state supervision and might be abolished by royal ordinance; and that a legally appointed clergyman might exercise religious functions in any parish without declaring his intention to the government to settle in the said parish. The discretionary powers thus granted the administration were limited to the first of January, 1882, except that in regard to the creation of establishments for the care of the sick and unfortunate.

The state could certainly maintain that by this statute it in nowise compromised its own sovereignty or the supremacy of the laws. It had only modified its policy. It had found that, in the conflict which it was waging with the pope and the bishops, its own Catholic citizens were suffering the greatest deprivation, and that the prelates were willing to have them suffer in order to rouse them to a hostile attitude against the government. The Landtag, therefore, essayed by these new measures to put the administration in the position to cast the hardships where they belonged. Throughout the years 1880 and 1881 the government pursued the policy outlined in this statute with the effect of quieting its Catholic subjects and inducing the pope to consent to the election of vicars (not bishops) by the cathedral chapters.[1]

With the beginning of the year 1882 the government resolved to go a step further. It asked for a continuance of the

[1] Schulthess, Geschichts-Kalender, 1881, S. 88.

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powers conferred by the law of 1880, and a grant of new ones,[1] and it sent von Schlözer to Rome (February, 1882) as Prussian ambassador to the pope.[2] The Landtag voted the continuance of the powers, and in addition thereto authorized the government to consider that any bishop, pardoned by the king against a judgment of dismissal from office by the state, was thereby restored to the said office; to substitute for the state examination, required by the law of May, 1873, as a necessary qualification to the attainment of spiritual office, other proof that the prescribed course of study had been followed; to dispense at its discretion with the requirements of the course itself as to priests or teachers in the church schools; and to admit foreign ecclesiastics to the exercise of spiritual functions. The law of 1874, authorizing the congregations in vacant parishes to elect their priest and other servants, was abolished altogether. The Landtag also approved the sending of von Schlözer to Rome, by voting his salary in the budget.

The state could still contend that this statute did not compromise its sovereignty, that it was still seeking the solution of the question by way of independent legislation; but von Schlözer's mission foreshadowed at least a departure from this standpoint, and the surrender of principle for a *modus vivendi*. Under the new powers the government made the attempt in good earnest to satisfy all reasonable complaints. It pardoned the bishop of Limburg, and reinstated him in his diocese. It permitted the pope to nominate new bishops to the vacant sees. It proclaimed that the clergy who had been banished from the empire or the state might return and be reinstated by simply petitioning the government for dispensation; and it informed the pope that it was prepared to suspend the law in reference to the appointment of the clergy for all non-beneficed offices, but expected the pope to agree to the law in reference to all beneficed offices. But not one hair's breadth did the prelates advance in response. They had come to think that by holding out a little longer they would secure the abolition of all the laws which had

[1] Schulthess, Geschichts-Kalender, 1882, S. 39.
[2] *Ibid.*, 1882, S. 32.

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been passed since 1871, and they had reason to think so. The government had been far too generous. It waited with no result until the close of 1884, when Prince Bismarck, in great irritation, declared in the Reichstag that the Prussian government had relieved the religious necessities of its Catholic subjects and did not propose now to go another step farther until the pope and the ultramontane party changed their attitude.[1] It is probable that this utterance of Bismarck influenced the pope to remove one of the personages most objectionable to the government — Archbishop Melchers of Cologne. The pope made him cardinal, called him to Rome, and recognized in this manner at last that the see of Cologne was vacant and open to a new appointment. But he still left the question about the archbishopric of Posen, the most sensitive and irritating subject of all, to drag along and keep alive the hostile spirit between the parties in the German and Prussian legislatures.

During the year 1885 the pope seems at last to have come to the opinion that a strong conservative power in the middle of Europe is a desirable and even a necessary thing to the present and future welfare of the Roman Catholic church. At the beginning of the year 1886 he manifested a much more responsive disposition toward the Prussian ambassador at his court. In January of the new year he joined hands with the Prussian government in settling the great subject of contention between them, *viz.*, the disposition of the Polish archbishopric of Posen. The pope recognized the government's deposition of Count Ledochowski, — in the form, indeed, of a papal recall, — and agreed to the election of Dr. Dinder of Königsburg, a loyal German, to the vacancy.[2] With this all the German bishoprics were now permanently filled again. The government met this advance on the part of the pope by a bill[3] brought before the Landtag the middle of February, which provided that the state examination of candidates for spiritual office should be abolished; that the state supervision over the church schools and seminaries should

[1] Speech of Prince Bismarck in the Reichstag, Dec. 3, 1884. Schulthess, Geschichts-Kalender, 1884, S. 130 ff.

[2] Schulthess, Geschichts-Kalender, 1886, S. 46.

[3] *Ibid.*, 1886, S. 59 ff.

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thereafter be only the general supervision of the state over all education, as provided in the law of March 11, 1872, and not the special supervision provided in that of May 11, 1873; that the clause of the May law of 1873 which established a royal court for ecclesiastical affairs should be abolished; that the clause in the same law which provided for regular judicial procedure in the administration of discipline should be abolished, except in cases where removal from office should involve loss of income in whole or in part; that the clauses authorizing the interference of the government without appeal made to it by the parties concerned should be abolished; that the *ministry* should take the place of the abolished court, as court of appeal in spiritual causes, but that the jurisdiction of the ministry should be limited to cases involving the violation of civil rights or loss of income; and that for cases arising under declarations of resistance to the laws or of recall of the pledges to obey the laws, the Kammergericht, the highest criminal court of the kingdom, should exercise the jurisdiction. The Landtag at first regarded the measure as too generous. Professor Gneist, Prussia's first political jurist, opposed it, and declared that it would leave the government defenceless against the Roman church, which could never be relied upon for patriotism and voluntary obedience to the laws. The majority of the Landtag seemed to be of the same mind; and not until Dr. Kopp, the bishop of Fulda, acting as papal spokesman, assured the body that if the bill should be passed, with a little wider concession in reference to the education and discipline of the clergy, the pope would acknowledge as the permanent rule the law requiring notification of ecclesiastical appointments and according to the government the right of vetoing the same in certain cases, did they look with sufficient favor upon the project to guarantee the hope of its adoption. And when it was learned that the pope had attached to his promise the demand for a farther revision of the whole body of the laws in reference to the relations between the government and the church, that growing favor was suddenly checked. But the government, especially the president of the ministry, Prince Bismarck, had now become fully pos-

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sessed with the idea that the liberal, progressive, and radical elements in German politics could no longer be relied upon for loyalty and patriotism, and were resolved upon union with the conservative elements. They pressed most rigorously for the passage of the bill and attained their purpose before the ominous month of May came to its close.

The real bone of contention, however, was not yet removed by this statute. Dr. Kopp had indicated this during the course of the debate. The power which the Roman Catholic church values more than any other — we might even say more than all others put together — is that of freely conducting the education of its clergy. Its existence depends upon this. Modern thought, science, and education are destructive to the tenets of Romanism. If the clergy of that church are to be not only exposed but compelled to such disciplines, there will soon be few upon whom the hierarchy can rely. Of course the pope and the bishops could never regard the conflict with Prussia as closed until this point should be conceded.

At the beginning of the present year (1887) the Prussian government came to look upon this demand with more favor. The conciliatory attitude of the pope, the curia, and the bishops, the dishonest use of the confessional question to cover the intrigues of Guelph politics, the spread of socialism and the international complications moved the government at last to propose to the Landtag a bill which rested upon the promise of the hierarchy that the conflict should therewith be brought to its close. This bill became law April 29, and, as the *Kölnische Zeitung* remarks, is therefore "not a May law."

This law abolishes about all of the important principles of the laws of 1873–4–5–6 which remained after the revisions of 1880–2 and 1886, except that part of the law of 1873 which requires notification of the appointments of the regular priests to be made to the chief administrative officer of the particular province and which reserves the right of objecting to the same on the ground of the civil or political disabilities of the appointees, and that provision of the same law which forbids the disciplinary power of the church to be exercised by other than German church tribu-

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nals.[1] And the chancellor of the empire, in his recent instructive and in some respects surprising speech upon the bill before the Prussian Herrenhaus (the upper house of the Landtag), appears to tell us that he does not consider the first of these of much further importance.[2] The law of 1874, making civil marriage obligatory and sufficient, and the laws of 1875–6, regulating the administration of the church property, also remain.

A very large liberty has thus been restored to the church by way of legislation. It has not as yet regained its constitutional immunities lost by the amendment of 1875, and is not protected by any concordat. The freedom it enjoys is wholly statutory and may, of course, be withdrawn again by a legislative act.

It is generally considered that the government has been worsted in this struggle, and has retreated from the ground held from 1873 to 1880. There are, however, two ways of looking at this. The first is that the government regarded the laws of 1873–6 as, for the most part, temporary and exceptional legislation, having for their purpose the breaking of a certain spirit of disloyalty among the prelates; that, this accomplished, they should be gradually abolished and the church gradually restored to its autonomy in the administration of its spiritual affairs. This is the view taken by the king and his administration, who assert that the change in the disposition of the pope and the bishops has warranted the change of attitude in the government. If it be true that such a change has taken place, we cannot justly pronounce the abolition of these laws a defeat of the government. From this point of view, they have accomplished their purpose and should pass away. The state has neither compromised its sovereignty nor the supremacy of its laws, and still regulates by law the relations and affairs of the church as far as a sound public policy would, under the present conditions of peace and harmony, advise. The other way of regarding the subject is that the Roman Catholic church never changes its spirit and policy; that it is always bent upon

[1] *Kölnische Zeitung*, Wochen-Ausgabe, 1887, no. 8.
[2] *Ibid.*, no. 13.

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the attainment of the mastery over the world in both spiritual and civil affairs; that the state must always be in a condition of war with it, and must, therefore, keep itself always prepared in its laws and administration for a vigorous defence; that any apparent cessation of hostilities upon its part arises from a necessity to regather and refresh its forces for a still fiercer attack; and that the state should never be deceived into a sense of security by any such ruse. This is the view taken by all the radical factions in the legislature and throughout the land. They declare that the ultramontanes have not, in 1887, budged a hair's breadth from their position in 1873, and that the government, in fear of the socialistic propaganda, has surrendered unconditionally to the pope and the bishops.

The wholesale cynicism of this view is repulsive; and it does not argue well for the sense and love of true liberty or for loyalty on the part of those who call themselves liberals that so many of their chiefs profess this view. It is simply a shameful state of things in the nation itself, if demagogery has so won the upper hand that a government so true and capable and successful as that of the Hohenzollerns in Prussia and in Germany must call in the influence of a foreign church prince to secure the necessary support against the powers of anarchy and destruction.

I shall not undertake to decide which of these views is true. I hope sincerely the former; and yet I cannot fail to see that the latter has some ground.

JOHN W. BURGESS.

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REVIEWS.

La démocratie et le régime parlementaire. Par ADOLPHE PRINS, inspector général des prisons du royaume, professor à l'université de Bruxelles. Bruxelles, C. Muquardt, 1887. — 8vo, 220 pp.

Dissatisfaction with the present results of democratic government has now become very general, almost universal, among publicists of the highest order. Some ridicule it, others predict its speedy downfall, while the more generous and earnest still support its principle, but propose great changes in the details of its application. Among the latter belongs the author, whose recent ingenious essay is the subject of this brief review.

Professor Prins attributes the comparative failure of the democratic parliamentary system to the influence of abstract ideas and the reign of an excessive individualism (chapter i, pages 13, 14). According to his view these are the two elemental forces which have produced universal suffrage and territorial representation, from which principles have resulted the uncertainty of legislation, the corruption of government, and the tyranny of the multitude. It would be difficult to gainsay his arguments upon this point. The doctrines, that all men are politically equal, that a territorial district, determined as to size by population, is the only basis of a true representation, and that the representation of the rights and interests of all depends upon universal suffrage, are certainly abstractions, and rest upon speculation rather than the facts of experience. It is also easily demonstrable that universal suffrage and the distribution of representation according to numbers have resulted in giving the balance of political power into the hands of the less intelligent and less conscientious part of the community, and have brought the crafty and the crooked, rather than the wise and upright, into the leading places. In fact, these things hardly require demonstration. A moderately careful observation will reveal them.

I think our learned author has diagnosed his case well, and has discovered the root of the evil; but the remedy which he prescribes does not appear to me either capable of effecting the cure or even of successful administration. What he proposes is, briefly expressed, to group the voters, in the distribution of representation, according to their economic interests, as laborers, farmers, artisans, merchants, capitalists, lawyers, doctors, clergymen, *etc.*, instead of according to territorial districts, and

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to represent the group instead of the individual in the elections. He contends that in this manner, and in this manner only, we shall get a representation of the legitimate interests of the whole society and a legitimate proportion in the distribution of the representation (chapter x, pages 195 ff.).

In order to escape the criticism which he himself has applied so freely to the present system, *viz.*, that it rests upon abstract ideas, Professor Prins leads up to his doctrine by a most thorough and interesting account of the political system of the cities in the middle ages, in which he manifests a large, not to say exaggerated, appreciation of the guilds as political organizations; and while he disclaims their revival as the purpose or consequence of his propositions, he, nevertheless, does not convince the reader that such would not be the inevitable result. Moreover, I cannot see that his example proves anything. In the middle ages the government was over and above and independent of these economic organizations, and could keep the peace and hold the balance of justice (with much difficulty and never perfectly, indeed) between them in their fierce struggles about things which appeal most strongly to the selfish side of human nature. It is a very different thing to construct a government *out of* such organizations, which will fulfil this same necessary and indispensable end. Each member of the legislature and the administration must regard himself as the representative and conservator of all the interests of the state, before he will be moved by the sense of justice and the general welfare; and in order to produce and sustain this sentiment in him, his constituency must be composed of participants in these various interests. Even then it is difficult enough to prevent the tyranny of the stronger over the weaker interest. If, on the other hand, we make each member the representative of but a single interest, and subject him to its motives, purposes, and instructions, how can we ever get anything in government but a conscienceless tyranny by the combination of the stronger interests against the weaker? I know that the modern political science is attributing a social end to government; but we must not forget that more important if more ancient end, *viz.*, justice to all. Unless we construct our governmental institutions so as to secure this, the pursuit of the social end will result in a despotism far more intense than any emperor or king has yet exercised.

Still further, it appears to me that the grouping of people according to their pursuits in the exercise of their *political* rights would be naturally followed by the impulse to introduce the like distinctions into the *private* law of the state; the result of which, if accomplished, would be a conflict of laws most destructive to legal and political civilization. Any student of legal and political history has examples enough of such a sequence of social movements.

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Lastly, the author fails to instruct us how, in states whose governmental institutions already rest upon universal suffrage and territorial representation, his system can ever come to application; and it is for such states that it is intended. His object is, through it, to get the power out of the hands of the lower classes, who by the system of universal suffrage are in the majority. The only *legal* way to secure the realization of his proposition, therefore, is through the voluntary surrender of that power by these classes. It is not to be expected that they will do this consciously. It is hardly to be expected that they can be brought to it through deception. There would remain then only the method of *coup d'état*, — a method indeed of practical politics at times, but not of political science.

JOHN W. BURGESS.

American Statesmen. The Life of Thomas Hart Benton. By THEODORE ROOSEVELT. Boston and New York, Houghton, Mifflin & Co., 1887. — 372 pp.

The thirteen volumes of this series that have preceded Mr. Roosevelt's have presented in general lines that view of our political history prior to 1850 which it is fashionable rather than popular to hold at the present day. In respect to party principles, the standpoint of the series is mildly federalistic. In judging the great men who are the subjects of its biographies, the various contributors are in substantial accord on general characteristics, though diverging more or less on special points. It is assumed as axiomatic, for example, that Jefferson was a tricky, treacherous politician of the baser sort; Madison, an administrative imbecile; Jackson, a stubborn, hot-headed ignoramus, whose only virtue was embodied in his threat to hang the nullifiers; and Webster, a demigod up to the 7th of March, 1850. Mr. Roosevelt's book exhibits all these earmarks of the series. While nominally a life of Benton, it is practically a history of United States politics from 1820 to 1850, with an explanation of the Missouri statesman's position in reference to each of the great questions that arose during that period. From Benton's devotion to Jackson, he became the doughtiest champion of that old hero against the combined assaults of what is generally considered our greatest political trio, — Clay, Calhoun, and Webster. Mr. Roosevelt makes much of his book a study in comparative reputations, seeking, and often with considerable show of success, to establish for Benton a claim to equal rank with the famous three. The general result of the study seems to be that Benton was in all respects the peer of Clay, and, while perhaps not intellectually equal to Webster or Calhoun, yet more honest and consistent than the former, and infinitely more patriotic than the

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latter. Mr. Roosevelt cannot accept the rather touching and romantic picture of Calhoun which Von Holst has drawn in both biography and general history. The South Carolinian was always an object of special detestation to Benton, and Benton's biographer shares the feeling.

It is not, however, in the history of the bank war, nullification, and the other political issues of Benton's day that Mr. Roosevelt's book is particularly valuable. This part of the work contains little that is new either in respect to the general historical facts or in respect to Benton's connection with them, and no such attention is devoted to personal and private characteristics as should distinguish the biography of a man from the history of his times. The author indulges in frequent flights of airy judgment on the men and matters of the days he is describing, roundly rates his hero and others for violations of the maxims which have come to be accepted by a certain class of dilettante politicians of the present decade, and sounds sapient notes of warning for the statesmen of to-day. But the really important feature of the book is its treatment of the sectional question. The author's own experience on the modern frontier of our progress westward has doubtless contributed much to the admirable judgment which he gives as to the character of the early West. Taking Benton as an exceptionally developed type of the rude but robust trans-Appalachian civilization, he brings into proper light, as is rarely done, the early antagonism between that civilization and the more advanced stage on the eastern coast. He shows that this antagonism prevailed to the south as well as to the north of Mason and Dixon's line, though in a less degree, and he displays Benton and Clay as the representatives of the West in the two great parties, insisting upon her interests to any extent that would not imperil the union. In the whole sectional controversy Roosevelt is a healthy antidote to Von Holst. The latter can see no influence behind the acquisition of western territory that can be at all compared with that of the "slave-barons." Mr. Roosevelt claims — and no one not looking in the light of a preconceived theory will gainsay it — that both Texas and California were won by the West, and would have been so won had slavery never existed. The "manifest destiny" slogan was more effective than that of "more slave territory."

Mr. Roosevelt's general estimate of Benton's character and attainments is not widely different from that generally accepted. Of absolute personal integrity, strong-headed, self-willed, industrious, pompous, and vain, his self-esteem and pugnacity, backed by a very respectable acquaintance with historical and legal literature, made him a formidable foe for those whose intellectual fibre was finer but less strong. The rather amusing quality of the eloquence that could be expected from such a character is well noted by his biographer. It is perhaps a little unfortunate, however, that a tendency to pleonasm (as displayed in the

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boast that he engaged in a certain task "solitary and alone") should be criticised in a work in which a panic is described as "one of the least simple and most complex of mercantile phenomena," and Clay is referred to as "the nominal and titular leader of the Whigs." Many other instances suggest that Mr. Roosevelt's study of his hero's style has been thorough if not altogether profitable.

WM. A. DUNNING.

American Commonwealths. New York. By ELLIS H. ROBERTS. Boston and New York, Houghton, Mifflin & Co., 1887. — 2 vols. 12mo, 758 pp.

This book is a source of great disappointment to all those who expected that the volume dealing with New York in the American Commonwealth series would supply that long-felt want, a trustworthy monograph on the history of the state from the Dutch supremacy to the present day. There are numerous excellent works on limited periods, there are many good local histories, the state government has been most munificent in publishing all documents casting light upon our colonial annals, but Mr. Roberts is the first to attempt the task of welding all this material into a form which, while succinct, shall omit nothing of importance. In this he has failed.

In the first place, he has mapped out his work wrongly, devoting attention and space to the different periods of New York history in something very like inverse ratio to their importance. He gives almost one-fourth of his 740 pages to the discussion of the Dutch period (1609–1664), and but 90 pages to the history of the commonwealth during the last thirty years, with all the important events of the war, the questions arising therefrom, and the attempts at reform in state and municipal government.

Again, the book is unsystematic; facts are strung together without regard for chronological order or philosophic sequence. An example of this is found in the relation of the conflict which secured to the colony liberty of the press. The author devotes a chapter (xvii) to the Zenger libel prosecution, which had no important political result. But he merely mentions without comment (page 310), the decisive struggle over the question between Governor Clinton and the assembly in the Parker case. The governor had forbidden the public printer to publish an account of the proceedings of the assembly; but that body asserted and maintained the position that "it is the right of the people to know the proceedings of their representatives," and that "the governor's attempt to prohibit the printing of their proceedings is arbitrary and illegal."

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The book is especially faulty wherever it treats of law. The analyses of the state constitution are such that the reader fails to obtain any definite conception of the organic law. The colonial struggles which lie at the basis of the constitution of 1777, which caused the legislature to consist of two bodies only and deprived the governor of the power of veto and appointment, are slurred over. The great influence exerted by New York, its statesmen and politicians, upon the affairs of the nation, is most inadequately treated.

The limits of this review permit the presentation of only a few of the errors into which the author has fallen. These are very numerous, and are due to his failure to consult the original documents on New York history, and the hapless fate that has driven him to seek for information only in the least trustworthy works on the subject. His errors are of both omission and commission. Thus, in discussing the constitution of 1777, he fails to mention the existence of a judiciary department; he omits John Lawrence from New York's delegation to the first Congress, and Roscoe Conkling from the prominent members of the thirty-sixth.

On page 370, he says: "The British parliament, June 29, 1767, forbade the New York assembly to pass any act before it made provision for British troops. The prohibition had the effect to suspend legislation for two years." There is an accumulation of errors here. Parliament forbade the assembly nothing; but it did forbid (7 Geo. 3, cap. 59) the governor, lieutenant-governor, and council to give assent to any act of the assembly after October 1, 1767, until an act should be passed providing for the troops in compliance with the Mutiny act. Moreover, on June 6, 1767, twenty-three days before 7 Geo. 3, cap. 59, was enacted, the assembly had complied with the Mutiny act. The assembly met in November, 1767, and passed numerous acts which received the assent of the governor and council, on the ground that the law of June 6 was "such a compliance with the act of Parliament as did take away any scruple the governor could have to concur"; and the validity of these laws was affirmed by the king in council.

Page 434 speaks of "a council of revision and appointment," and gives its constitution and functions; which proves that the author has joined two councils which the constitution of 1777 declared should be separate. His statement on page 465, that in 1789 "senators and presidential electors should be chosen by joint ballot, as is the case now," indicates somewhat vague notions as to the present method of choosing presidential electors. On page 484, Mr. Roberts says that in 1799 the population of the state "was nearly a million," but the census of 1800 estimated it at 586,050. Why he calls the Oswego River the Onandaga (page 326), or Martinique, Martinico (page 342), and who Peter (Qui-

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der) Schuyler was (page 336), are questions which the gazetteer, encyclopædia, and the "Genealogical Record" fail to answer.

The author's notions of United States history, also, are somewhat hazy. For example, he talks of the electoral votes deposited for the candidates for the vice-presidency in 1792 and 1796 (pages 470 and 472). On page 477 he says that the Kentucky and Virginia resolutions were drawn by Madison. If Mr. Roberts has a new theory on this interesting subject, he should devote to its elaboration more than one sentence. On page 634 we learn that the Baltimore convention of 1848 refused to admit either delegation from this state; whereas, in fact, it offered to admit both. But the most entertaining statement contained in the two volumes is, that Burr's meditated treason in 1806 was "a romantic adventure in the southwest" (page 496).

The book is worthless to the student, and has no reason for existence except to fill a gap in the Commonwealth series.

ROBERT WEIL.

Gesammelte Aufsaetze. Von DR. ALBERT E. FR. SCHÄFFLE. Tübingen, Lauppsche Buchhandlung, 1886. — 2 vols., 298, 311 pp.

Among contemporary German economists Schäffle's name stands chiefly for two things: the elaboration and defence of the social and ethical theory of economics, and the unfolding of the analogy between natural and social evolution. He is more than an economist; he is a social philosopher of the first rank. He has looked more deeply into the character, tendencies, and possibilities of socialism than any other man. For the last thirty years he has been enforcing and illustrating the doctrine that society is an organism. He has done more than any one else to make that conception clear and useful. Within his idea of society is comprised the entire activity of man, collective and individual, in religion, morality, art, science, literature, industry, social life and manners, and government. Unlike Spencer, he is free to recognize the spiritual nature and origin of man. Lotze furnishes the philosophical basis of his theory. He is therefore as far removed as need be from materialism. His works often labor under the disadvantage necessarily connected with argument from analogy, but they mark an epoch in the development of social science.

The volumes before us contain a collection of essays which have appeared in various German periodicals since 1855. They are on a variety of subjects, some political, others economic, others, in the wider sense, social. The political essays are on topics of little practical importance for us at present, and so may be passed over. Of the economic and

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social subjects treated, the chief interest attaches naturally to those of a theoretic character, as the dissolution and restoration of the guild, the relative importance of man and of material goods in economics, the ethical side of the doctrine of value, Darwinism and social science, the applicability of the different forms of the *entrepreneur* function.

In the fundamental views expressed there is little difference between the earliest and the latest of these essays. Those written in the fifties are full of the complaint that the disorganization of society has gone too far. The individual is becoming isolated, and thus the road is open toward either despotism or anarchy. The great need is the development of more of the spirit and forms of organic unity. The time has come for a reaction from the process of disintegration toward that of reorganization. But the old forms of the mediæval guild and corporation are not adapted to the needs of modern times. Those of the present must be voluntary, capable of free development, not the nurseries of privilege. Association, co-operation, fulfil the conditions, and should be encouraged as conserving forces in all departments of social life. Experience confirms what is deductively established by the theory of evolution, that social progress is effected through collective effort, and that society advances through ever higher and more complex forms of organization.

In his essay on man and the commodity in economics, Schäffle illustrates beautifully the doctrine that the science does not deal with natural processes and elements, but with ethical. Man is the centre; labor is the only positively productive factor; commodities are a means of human development, not an end in themselves. The application of this idea to the theory of taxation is shown — making taxes on consumption, a moderate income tax, and taxes on inheritance allowable. As the development of personality is the object aimed at, the eye of the economist should be open to departments of human activity other than his own. Economics broadens into sociology. Schäffle by no means goes to the extreme of confounding the two, but pleads for broad culture and views on the part of the economist.

One of the essays, written two years ago, recommends, in view of the destructive competition to which European farmers are exposed from the importation of cheap American, Indian, and Australian products, that a customs union comprising all the continental nations be formed for common protection. In connection with this also a monetary union could be established, which would help to remove the evils of low prices. The author thinks the plan could be easily carried out through the influence of the three emperors, and would be a most important step in the development of international relations.

H. L. OSGOOD.

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Public Debts: An Essay in the Science of Finance. By HENRY C. ADAMS, Ph.D., Lecturer on Political Economy and Finance in the University of Michigan, and Associate Professor in Cornell University. New York, D. Appleton & Co., 1887. — 8vo, xii, 407 pp.

According to Adam Smith: "Political economy, considered as a branch of the science of a statesman or legislator, proposes two distinct objects: first, to provide a plentiful revenue or subsistence for the people, or more properly to enable them to provide such a revenue or subsistence for themselves; and secondly, to supply the state or commonwealth with a revenue sufficient for the public services." This definition has been repudiated by later English economists and with unfortunate consequences. In the first place it has encouraged the separation of political economy from political science. The former is no longer a "branch of the science of a statesman or legislator." It considers only "natural" laws, and any activity of the state in economic affairs is looked upon as "interference" that is *prima facie* unauthorized and injurious. Political economy has thereby acquired a false air of abstraction and unpracticality which has been the more unfortunate as the increasingly industrial and commercial character of modern society gives a strong economic cast to almost all political questions.

A second consequence of this repudiation of Adam Smith's definition was that English political economy dropped out of its system almost entirely the second subject mentioned by him, namely, the question of state revenue. Adam Smith devoted a whole book to this subject. This book contained three chapters: one on the "Expenses of the Sovereign or Commonwealth," one on the "Sources of the General or Public Revenues of the Society," and a third on "Public Debts." In J. S. Mill the book has dwindled to a few chapters on taxation, dealing almost exclusively with its incidence and its influence on private wealth, and one chapter on public debt treated in the same way. It is true we have a few separate works on taxation and public debt, but the systematic literature in English on finance is extremely scanty.

This neglect to follow up Adam Smith's example is the more extraordinary when we consider that the operations of the English exchequer were for years more extensive than those of any other state treasury, and that the English public debt was the oldest and until very recently the largest of any in the world; that the English system of taxation was the fruit of public discussion years before budgets on the continent were subject to the people; and that Walpole, Pitt, Peel, and Gladstone have been among the greatest financiers of the world.

It is rather singular to find, too, that while English political economy has largely neglected this subject, the Germans have developed it into a

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separate science distinct from political economy, namely, a *Finanzwissenschaft* or *Staatswirtschaftslehre*, and that the French have followed with a *science des finances*. The importance of the subject justifies this separate treatment. The state stands there, the greatest of all economic institutions, abstracting wealth from the community with one hand and returning it with the other. Its operations must have an immense influence on the economic prosperity of society, while the motives influencing these operations are peculiar. They are neither purely economic nor purely political nor solely administrative. The science of finance rests partly on political economy and partly on political science, while its outer framework is supplied by administrative law. It is this peculiar character of questions of finance together with the growing importance of the subject that justify the development of a "science of finance" as a separate part of political economy.

Professor Adams' book is a careful, scholarly, and extremely suggestive treatment of one of the two most important topics in finance — the other, of course, being taxation. Every treatment of either subject must be at the same time practical and theoretical. The science is so new, and the mere facts are so often unknown or not comprehended, that the first duty of an author is to give his reader information about the great financial systems of the present and the financial history of the past. But then he must, if possible, out of these facts deduce theory, criticism, and principles. Professor Adams has accomplished both of these things. His history and facts are mainly from American experience, which gives the book the value of originality, for American finance is an unexplored field. His criticisms and conclusions are acute, independent in judgment, and for the most part sound.

The plan of the book is admirably simple and clear. Part I treats of public borrowing as a financial policy; and as public debts are either national or local, and as these differ considerably in character and influence, Part II is devoted to questions of national indebtedness, and Part III to local indebtedness.

In Part I the author points out that these enormous national debts (twenty-seven thousand million dollars in all) are a phenomenon of modern times. They imply an advanced industrial civilization, for there must be a money market in which to borrow; and they imply advanced popular government, for the capitalists would not lend to governments if they did not control them themselves. The nineteenth century is the rule of the capitalist. The immediate occasion for the enormous increase of these debts in modern times is to be found in wars and internal improvements. The former have been caused by the growth of nationalism, and the latter by socialism.

Both of these latter generalizations are fascinating, but, in my opinion,

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more fascinating than true. Nationalism has led to wars, but the reason why wars involve governments in debt is that the modern system of warfare is so expensive, and government pays for everything. In old times wars dragged on from year to year, but each year was made to pay for itself in some way or other. The community really paid in the free services of the citizen, in forced requisitions, in destruction of property during invasion; but when the nation was exhausted, the war stopped. At present the government pays for everything, and public credit enables the nation to hold out longer and make greater exertions. So again, it is not so much socialism that has made the performance of the internal duties of the state more expensive, as their increased arduousness, due to the growth of population and wealth, their more careful performance, and that great change in financial systems by which the state demands less and less the specific services of its citizens, and more and more money to pay trained officials.

The tendencies of public debts are very important. The author suggests that politically they are opposed to popular government, because they remove responsibility from public officials; witness the municipal extravagance in this country. Internationally they endanger the autonomy of weak states; witness the fate of Egypt. Socially, public debts tend to perpetuate class distinctions, or at least to interest a certain class in their continuance; witness the persons holding national bank stock in this country, and the holders of French *rentes*, who oppose conversion.

Undoubtedly the most important question about public debts is their industrial effect. The experience of the world has never given a definite answer to this question, and probably never will. The exact point when public borrowing will drive productive capital from employment and thus injure industry, must be determined by a great variety of circumstances and can never be the same at one time or place as at another. Professor Adams' discussion is acute and logical, and, in my opinion, a distinct advance upon the treatment of the same question by Leroy-Beaulieu, the distinguished French financier.

Part II, on national indebtedness, will be found to contain valuable criticism of the financial management of the wars of 1812 and of 1861, of the issue of legal tender notes, of the resumption of specie payments, of the appearance of the United States treasury in the money market in 1873, of refunding and of the policy of paying the debt.

Part III, on state and municipal indebtedness, is the least satisfactory portion of the book, probably because the material is so scanty and so difficult of access. Perhaps a more thorough study of local financiering abroad would have made the theoretical part more complete. Finally, the notion that our states should have their borrowing power restored,

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so that they may take hold of internal improvements, will, I fancy, scarcely find much approbation. Our chief internal improvements now are railroads and telegraphs, and if the government is to take hold of them, it will be the one federal government, not thirty-eight state governments.

RICHMOND M. SMITH.

The Relation of the State to Industrial Action. By HENRY C. ADAMS, Ph.D. Publications of the American Economic Association, Volume I, number 6. — 8vo, 86 pp.

Professor Adams' *Relation of the State to Industrial Action* is interesting in a double sense, both as showing what a certain class of thinkers, of whom he is so eminent a representative, really mean, and also as showing what they do not mean. The essay is a revision of a paper printed last year under the title *Principles that should control the Interference of the State in Industries;* but the ideas are materially expanded in the present monograph. Professor Adams starts with the reflection that there is at present an undeniable and increasing clamor for extension of governmental powers in social relations, and proposes to subject the demand to a searching analysis, in order to discover if possible a guiding principle. He clears the ground by discussing the doctrine of *laissez faire* as formulated by the English school, and as the outcome of the Spencerian social philosophy. This is a comparatively easy task, and has been repeatedly performed by others. Professor Adams concludes that the doctrine cannot lay claim to scientific pretensions, and that "the abandonment of its scientific pretension [by Cairnes and others] destroyed whatever authority English economy ever had as a guide for constructive economics, except so far as it is an accidental expression of the instinct of conservatism." He objects to the English political philosophy because it regards the state as a necessary evil; he equally objects to the German political philosophy because it conceives of the state as an organism complete in itself. In Germany the presumption is in favor of the state; in England the presumption is in favor of the individual. Both ideas, Professor Adams asserts, are incorrect. He would have society recognized as a unity, without any exaggeration of either public or private duties.

Coming then to the constructive side of the argument, Professor Adams maintains that the state may determine the plane of competitive action. Free competition tends to lower the moral sense of a community, to force the business man down to the moral level of the most unscrupulous competitor. Hence the economical defence for factory legislation, which does not curtail competition but simply raises the

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plane of competition. It succeeds in removing serious abuses without abrogating the benefits of individual action. This is the true sense of the claim that the state is a moral agency. "The state must regulate competition to the demands of the social conscience."

Secondly, the state may realize for society the benefits of monopoly. Industries may be divided into three classes: industries with constant returns, where an increase of capital and labor brings a proportionate increase of product; industries with diminishing returns, where increased capital and labor do not bring a proportionate increase of product; and industries with increasing returns, where increased capital and labor bring progressively increased products. The first and second classes, which include the majority of retail business as well as agriculture, call for no interference by the government. Individual interest may be relied upon to give the most efficient results. But in industries of the third class, which usually take the form of corporations, the matter is different. They are by nature monopolies, and free competition is impotent to protect the public. Public control of such corporations is imperative.

Thirdly, Professor Adams maintains that one cause of our political corruption and administrative weakness lies in the self-abnegation of our public authorities, our municipal and state governments. In giving the corporations free scope and attempting to apply the principle of competition to what is a monopoly, government has become more corrupt, and the public element in corporations has been lost sight of.

In this suggestive monograph the main point that strikes the reader is its essential conservatism. It is the best proof of the fact that an abandonment of *laissez faire* does not connote socialism or anything materially approaching socialism. Professor Adams expressly and repeatedly shows that the old principle of personal responsibility is instinct with vitality. He believes that the labor problem must be worked out on the basis of free contract, and maintains that the state must not control labor relations. This analysis simply results in the demand for factory legislation — which will be denied by no one to-day — and in the claim for public control over corporate monopolies.

It may be interesting to compare with the views here presented those of the leader of the extreme faction of the historical school in Germany, Professor Gustav Schmoller. Schmoller lays down five principles for healthy social reform, which are as much negative as positive. (1) The state must be essentially conservative. A complete reconstruction of society in the socialistic sense is an impossibility, and would be a fatality. (2) The state must not attempt to act directly, but all social reform must be preceded by a careful scientific discussion. Immature experiments are always harmful. (3) The laborer must be led to an inde-

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pendent reform. State and society may give him a temporary crutch to lean upon, but the main thing is to educate him to a point where he can do without the crutch. (4) The state must never rob the rich for the sake of the poor. (5) The state must refrain as much as possible from direct interference with wealth of individuals, but must strive to influence indirectly the moral sentiments of the people; *e.g.*, by education, factory laws, sanitary laws, incentives to increased thrift, *etc.* If only facts and not fancies be regarded, it will be seen that the opponents of *laissez faire* are verily the true conservatives.

Only a few words of criticism are permissible. Professor Adams does not give a precise analysis of his concept "state." He evidently uses the term as synonymous with government, whereas in political philosophy the state is the whole of which the government is only an organ. The relations of state and society, which the author treats somewhat in Gneist's manner, are not adequately worked out, and might give rise to at least serious discussion. Finally, the assertion that those who advocate an extension of federal powers are not federalists but imperialists rests on a very slender basis of constitutional law, and confounds constitutional liberty with administrative decentralization. But in so far as the purely economic argument is concerned, the reasoning is close, the analysis is clear, and the conclusions eminently conservative.

E. R. A. SELIGMAN.

The First Nine Years of the Bank of England: An Inquiry into a weekly record of the price of bank stock from Aug. 17, 1694, to Sept. 17, 1703. By JAMES E. THOROLD ROGERS. Oxford and New York, Macmillan and Co., 1887. — 8vo, xxxi, 183 pp.

While in quest of materials for the fifth and sixth volumes of his monumental work on the *History of Agriculture and Prices*, Professor Rogers found a weekly register of the price of Bank of England stock in a statistical paper published at the time by an apothecary, John Houghton. Professor Rogers here republishes the register, and comments on the successive fluctuations by explaining both the internal and external politics which attended the bank's birth and infancy. His object is to throw light on "the relations of a subsidiary currency to genuine industry and to genuine capital," for he believes that "speculative political economy has been a most dangerous guide," and that "nothing but inductive political economy is to be trusted as an interpreter of facts."

With the exception of the Bank of Amsterdam no institution of credit has had a more signal influence on public prosperity than the Bank of England. It was chartered in 1694, but under severe restrictions; it passed through almost three years of experiment and opposition; and

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finally received its enlarged privileges in the second bank act of 1697. The close connection between the bank and the government was the secret of its stability and influence. Professor Rogers emphasizes the relationship between the politics of the day and the fortunes of the bank. The founders did not proceed on modern principles of banking. The capital was lent to the government; the security of the shareholders was the good faith of the government. "The bank was a Whig institution, devoted to the Whig settlement of the constitution and to the Whig administration" which created it. To this fact is to be ascribed much of the early opposition. The story of the notorious land-bank project of Chamberlain and Briscoe in 1695–96 is told with minuteness, and its temporary effect in depreciating the Bank of England stock carefully analyzed. With reference to general politics the greater portion of this period has been covered by Macaulay's brilliant work; but the years 1700–01 are treated by Professor Rogers with especial fulness, because of Macaulay's failure to complete his survey. The foreign politics and the course of foreign exchange are carefully followed and the explanation of the vicissitudes of the bank's fortunes is brought down to 1703, when it had finally attained an unassailable position and had become a regular instrument of the governmental policy. The whole essay rests on contemporaneous and often rare pamphlets and records and is a thoroughly good piece of work. It will be interesting to the historian and the economist alike.

E. R. A. S.

First, Second [two parts], *Third, and Final Reports of the Royal Commission appointed to inquire into the Depression of Trade and Industry.* London, 1886.—Folio, 229, 429, 428, 496, and lxxvii, 139 pp.

Report from the Select Committee on the Employers' Liability Act (1880) *Amendment Bill.* London, 1886.—Folio, xviii, 648 pp.

Reports by her Majesty's Representatives Abroad on the Laws regulating the Liability of Employers in Foreign Countries. London, 1886.—8vo, 94 pp.

Reports by her Majesty's Representatives Abroad on the System of Co-operation in Foreign Countries. London, 1886.—8vo, 139 pp.

Report of the Royal Commission on the Land Law [Ireland] *Act, 1881, and the Purchase of Land* [Ireland] *Act, 1885.* London and Dublin, 1887.—2 vols., folio, 24 and 1064 pp.

Inductive political economy cannot complain of lack of material during the past year. Besides the ordinary governmental publications, the

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American Senate reports on labor and on interstate commerce, the great French *enquête* on trades unions, *etc.*, we have had the above important English blue-books on trade depression, employers' liability, co-operation, and Irish land tenure. The value of such reports to the economist does not lie at all in the conclusions reached by the particular committee or commission; but in the testimony of experts, the explanations by government officials of their own figures, and the trustworthy accounts of the contemporary condition of things in all other countries. Recent political economy, especially the German, has not hesitated to avail itself of these opportunities; and whole books, like Marx's *Das Kapital*, Cohn's *Englische Eisenbahnpolitik*, and Held's *Zur Socialen Geschichte Englands*, have been practically written out of parliamentary investigations.

From this point of view, even the voluminous reports of the commission on the *Depression of Trade* will be found of interest. Of really permanent value are Mr. Giffen's account of the present methods of collecting statistics in Great Britain, with the list of the publications of the Board of Trade; Mr. Seldon's evidence as to the value of the statistics of imports and exports; and Mr. West's testimony in regard to the collection and incidence of the income tax. These gentlemen are the official heads of the departments concerned. Of expert testimony, we have Sir Lowthian Bell on the iron trade, Sir James Caird on agriculture, and R. Inglis Palgrave on silver. To the close student of economics the whole mass of testimony is interesting as showing how difficult it is to apply general principles to the complex phenomena of modern industrial life. The mental struggles of some of the witnesses also are very amusing. The British philistine still sticks to his free-trade dogma and his belief in the industrial supremacy of England; but he is sorely puzzled to explain how Germany undersells him in the neutral markets. The explanation of one witness is as follows:

> Germany in 1866 became a confederated nation; it had a feeling that it was a nation, and it seemed to have got a determination in it that it would do things which it hitherto had not done. It would found manufactures, it would have a voice in the world industrially as well as politically. That feeling was greatly increased in 1870 to my knowledge, and it has not yet ceased to exist up to the present time. The call which has been made by Germany for colonies, whatever we may think of it, is produced by the same circumstance that Germany is a nation, which has to show the world that it is a nation, and that it can now manufacture and export. There is no country, on the other hand, I think, which is more bound to produce cheaply than Germany, and that is what Germany does. It is by cheapness, and by obtaining cheapness in various ways, that it manages to do what it notoriously has done; that is, that it sells iron outside Germany, that it sells cotton outside of Germany, particularly hosiery, and that it sells woollens outside Germany;

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but that is really done by means which other nations do not adopt. For instance, the exporting rates on railways for goods are cheaper than the importing rates. When tenders are made by the government for railways or for works in the country in Germany, the same firm will tender at 10 marks per ton dearer than it would tender for the same thing if it was to be furnished to a firm in Italy, or to a firm in England. [First Report, page 65.]

The belief in the single gold-standard dogma, on the other hand, has been severely shaken by the continued low prices; while Mill's doctrine that there can be no such thing as over-production is practically abandoned by both witnesses and commission. Much to their credit, the majority of the manufacturers deprecate any move towards breaking down the factory laws, although some of them look with rather longing eyes at the eleven and twelve hour working day in Germany, and Professor Bonamy Price protests against the refusal of the commission to consider the expediency of breaking down these laws, declaring such refusal to be a "distinct repudiation of the great doctrine of free trade." (Final Report, page xliii.) How free trade works in practice is brought out clearly in the following testimony:

2271. Can you give us any information with regard to the association which we understand has been formed for the purpose of distributing the orders received for the manufacture of rails? — I had something to do with the origin of that association, and the conduct of it since. It was formed two years ago, at which time steel rails were being sold at less than 4*l.* per ton at the works, that price, I believe, being a loss to the parties selling them varying from 5*s.* to 10*s.* a ton. The quantity of rails that were required then had fallen off to only about one-third of what it had been in previous years; we were all of us working nothing like half time, and when orders came in it became a question: Is it better to take these orders at a known loss or let the works stand and have an indirect loss in that way? The competition became so keen that we got down to less than 4*l.* a ton at the works. After some time the makers in England, all except one firm, agreed to join the association, and it was decided to endeavour to associate the Belgians and the Germans with us as being the only two countries that exported rails. It ended, after taking the figures of three years of the experts from the three countries, that Great Britain kept 66 per cent of the entire export trade. Belgium had 7 per cent and Germany 27 per cent. . . . The next thing that we had to do, having agreed upon what proportion each country was to have of the orders of the world, was to agree amongst ourselves how we should divide those orders, and we thereupon assessed the capabilities of each work, each company representing a certain number of parts out of 100 parts. The effect of this has been that we have gone on for two years dividing the orders in something like a proper proportion, and we have maintained a price of 4*l.* 13*s.* a ton at the works, it having been when we began 4*l.* [Second Report, part i, page 60.]

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The whole report shows that England has lost or is losing that easy supremacy which she has enjoyed for so many years, and is about to enter on a period of close competition and arduous industrial exertion if she is to support her increasing population.

The committee on the *Employers' Liability Act* of 1880 report that that act has been of great benefit to the workmen, and has inflicted no hardship on the employers; and they recommend its extension to "seamen and all persons, including omnibus and tramway servants, who have entered into or work under a contract of service made with the employer, either verbal or in writing, and whether the work be performed in the employer's workshop or elsewhere, and whether involving manual labor or not." This is a wide extension, and speaks well for the working of the present act.

The committee make various proposals for amending the act, in order that it may accomplish its purpose more effectually; and the reasons for such amendments are well brought out in the testimony. The committee found that employers compelled their workmen to contract themselves out of the act. In some cases the only consideration was employment; in other cases the employers, in return, contributed to a workmen's insurance fund. The first proceeding the committee emphatically condemn, and recommend that it be forbidden. The second course does not seem to be disadvantageous to the workman, provided the employer's contribution is reasonably large. It saves all expense of litigation, and it secures the workmen in case of accidents for which the employer is not liable, *e.g.*, from the carelessness of fellow-workmen. One solicitor, who had a large practice under the act, testified that in not more than one case out of ten of general accidents was there a right of action under the liability act; and that the workman does not succeed in more than one case out of five or six under that act. Where the employer will contribute a reasonable proportion to a workman's insurance fund, the committee recommend that contracting out of the act be allowed.

It was found that employers, especially in the building trade, evaded the act by subletting the work. The sub-contractors were men of straw, having no capital, but using the employer's plant; but they were the defendants in case a workman was injured. The committee recommend that the employers who furnish the plant shall be held responsible.

Various other amendments were intended to make the remedy easier and more effective.

The reports from abroad, on the laws regulating the liability of employers, are useful chiefly as showing how differently they do things there. In Germany, for instance, they have adopted the very principle which in England is looked upon as doing away with the act, *viz.*, com-

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pelling the employer to contribute to the insurance of his workmen. There, also, they have no thought of allowing employers to abrogate laws by compelling their employees to contract themselves out of them; but, on the other hand, they allow employers to join an insurance company, and thus secure themselves against heavy loss, a thing which was complained of in England because the insurance company was a more obstinate defendant than the individual employer. In short, the two systems are directly the reverse of each other. Each is perhaps suited to the genius of the people for whom it was made.

The report on *Co-operation* is a useful compilation, giving the history of co-operative experiments in different countries. The record shows considerable progress, together with numerous failures. Each country has its characteristic features. In France, for instance, co-operative stores are not of very great importance, credit banks have for the most part failed, and building societies are almost unknown; while the most successful examples we have of profit-sharing and productive co-operation are the establishment of M. Godin, at Guise, and the well-known paint-shop of Leclaire. In Germany, the Schulze-Delitsch banks are the only really important and successful co-operative enterprises. Profit-sharing has been largely a failure, owing, as the manufacturers think, to the prevailing socialistic feeling that the state is about to ameliorate the condition of the working classes. There are in Germany but thirty-three building societies; in Austria, but five. On the other hand, it is well known that co-operative stores have been extremely successful in Great Britain, and building societies in the United States. Co-operation thus appears to be largely dependent on peculiar circumstances for its success — a result which is hardly in favor of its claim to be regarded as the universal industrial system of the future.

The testimony before the *Irish Land* commission was as contradictory and perplexing as is the Irish question itself. The land bill of 1881 is generally declared to be a failure, although it has reduced rents nearly twenty per cent. The original definition of "fair rent" was what the tenant could pay taking one year with another; but, owing to the low prices of the last two years, the land court is now fixing rents lower than at first, which makes the tenants whose rents were fixed in 1881 discontented. Should prices recover next year, we should have the anomaly of two sets of tenants with statutory "fair rents," — one set paying ten per cent more than the other, because the rents of the latter set were fixed in a bad year. Justice O'Hagan seems to acquiesce in these later reductions, but has no suggestion to offer as to what should be done for the first tenants.

The majority of the commission recommend that the rents should be readjusted at shorter intervals than the statutory term of fifteen years;

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say once in five years. It would not be necessary to go to the expense of making a revaluation; rents could be raised or lowered according to the price of agricultural produce. But the Earl of Milltown points out, in a minority report, that high prices might be caused by short crops, and that the consequent high rents in this case would be ruinous to the tenant; while low prices might mean abundant crops and perfect ability to pay the statutory rents. In short, under a "fair" rent the tenant has no right to demand reductions on account of temporary bad times any more than the landlord has to demand advanced rents in good years.

Everybody denounces the dual ownership. The landlord has lost interest in an estate which is no longer under his control, and will make no improvements. The tenant does not feel the stimulus of proprietorship, and delays acquiring ownership because he believes the landlord is being steadily driven to the wall, and will finally part with the land on cheaper terms than now, or else throw the burden on the state. It is to be hoped that our socialistically inclined friends will ponder over this example of the extent to which the "State" is at the mercy of the individual when there is enough "Individualism" left to keep an eye out for the main chance.

R. M. S.

À Panama. L'Isthme de Panama. La Martinique. Haiti. Lettres addressées au Journal des Débats. Par G. DE MOLINARI. Paris, Guillaumin et Cie, 1886. — 16mo, xi, 324 pp.

This book is made up of letters written by the accomplished editor-in-chief of the *Journal des Economistes*, describing a formal visit to the Isthmus of Panama.

In 1886, De Lesseps, the versatile head of the Panama Canal enterprise, took out a party of invited guests — representatives of the chambers of commerce of several French cities, economists, journalists, and others whose position gives them influence on public opinion in France — on a tour of inspection to report the progress and condition of the undertaking which is making such demands on French capital. Professor de Molinari was invited by double right, — as an eminent economic authority and a journalist of wide influence.

The book, which is an unambitious but very readable performance, gives a good account of the history, progress, and present condition of the great enterprise. The author saw the canal under the most favorable circumstances, with an accompaniment of banquets, processions of young girls in white, addresses of welcome to "le grand Français," that remarkable man, De Lesseps; but he gives in figures and statements sufficient substantiation for the opinions he expresses. He has no doubt

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that the canal will be completed, and reasonably near the estimates of time and expense. He claims with apparent justice that no proportion between the time and money already spent and the amount of actual excavation done would hold good for the whole work, since vast sums have necessarily been expended on preliminary operations, machinery, railways, hospitals, and the entire apparatus for making canals through wild jungles, which will continue to be useful through the entire work. The engineers represented to him a year ago that the work was probably one-third done. He sees the glory and prestige of France pledged to carry out the undertaking; failure would be for France an economic Sedan. Constantly hovering in the background there appears to the author's eyes the wily New Yorker with his dollars, waiting a moment of weakness or doubt on the part of France, to buy for a song the half-finished work, taking with it commercial supremacy and the control of the South American market.

A trip to Martinique and Hayti gives opportunity for many pertinent observations on the economic conditions of these islands, but offers less that is new and interesting than the stay at the Isthmus.

GEORGE H. BAKER.

L'Expansion coloniale de la France. Par J. L. DE LANESSAN, deputé de la Seine. Paris, Félix Alcan; New York, D. Appleton & Co., 1886. — 8vo, 1006 pp.

M. de Lanessan has written a valuable book on an interesting subject. England is now the great colonial power of the world, and we complacently assume from the qualities of the English-speaking people that it was foreordained that such should be her destiny. It is by no means clear that this was a necessary result. A century and a half ago it seemed possible and even probable that India and a great part of America would be under French control. Had Pitts, instead of Pompadours, ruled France in the eighteenth century, had another Richelieu arisen a hundred years later to support the genius of such men as Dupleix and Montcalm, French governors might now administer the affairs of Hindustan, the lilies of France might float at Montreal, and the French tongue be the only one heard in Florida and Louisiana and our vast territories west of the Mississippi. Of all the evils that France suffered from the century of misrule and imbecile rule prior to the Revolution, none was more serious than the overthrow of her hopes of colonial development from the Bay of Bengal to the waters of the great lakes.

There has been no time when the great continental powers of Europe have paid more attention than at present to the establishment of colo-

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nies in every part of the world. Europe is becoming crowded. A nation which has no footing outside of her territorial boundaries will be surpassed in wealth and influence by the powers whose commerce and population find openings in prosperous colonies or important foreign dependencies. The position of Germany in Europe is a commanding one, yet the German government is making every effort to plant the German flag beyond the limits of the fatherland. Italy is a new government, but her rulers are already seeking to establish outlets for Italian growth outside of the Peninsula. The colonial question in France has for some years possessed an importance second to no other. There is strong opposition to the large expenditure of men and money which has been incurred in endeavors to establish and foster French colonies; but we believe that it is the judgment of the most sagacious statesmen that if the French wish to remain a great people, what is spent in building up a colonial power is well spent.

M. de Lanessan has given in very great detail an account of the French colonial system. His book makes no pretension to a literary or an artistic presentation of the question; it is indeed not wholly unlike a comprehensive and well-arranged blue-book. But from it one can gain an accurate idea of the colonies of France, and of the policy by which they are administered. The most important are those on the north coast of Africa. There the power of France seems so firmly established that, in all probability, under her influence a great and fertile district on the south shore of the Mediterranean will be developed and drawn into intimate relations with European civilization. The conquest of Algeria was completed in 1847. The climate of the country allows Europeans to live and labor there with safety, and Algeria is now regarded, not as a colony, but as a department of France.

The French colonies are distinguished in one important respect from the English. The tendency among English colonists is to chafe at any dependent relations on the mother country. Even where they do not form a separate government, sooner or later they desire and obtain a practical autonomy. But for the French colonist the tie is much stronger that binds him to the home country. He desires to remain a Frenchman; Paris is still for him the centre; though his home may be at Senegal or Cochin China, his heart is in France. The strength of this attachment may be a reason why the French are poor colonizers, if, indeed, what is so often asserted is really a fact. But we are inclined to think that the views held by the English on this subject are to some extent erroneous. The emigration from France has been less than from England, but many causes have contributed to this result, apart from any unfitness of the French people for settlement in new lands. The emigration to Algeria has, however, been moderate, when we consider

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how well adapted that climate is for Europeans. The French population is now about a quarter of a million, among a native population of three millions. Some mistakes in the administration have tended to retard colonization, and the average condition of the French people, in a prosperous country, with a very slowly increasing population, does not furnish large bodies of men eager for a change in their fortunes, such as are found in most European countries.

The French steadily add to the foothold which they have thus obtained in Algeria. In 1881 Tunis was declared to be under the protection of France; from protection to annexation is but a step, and is the usual course of a strong and civilized power dealing with a weak and semi-barbarous nation.

Second only in importance to Algeria is the great province of Cochin China, which is now a part of the French empire. Cochin China contains a population of over a million and a half, and the French hope to extend their protectorate over Annam, Camboja, and the rest of Indo-China, until twenty millions of people become tributary to France. Indo-China would not, indeed, furnish an outlet for French emigration, but it is a fertile and populous country and capable of great development. A tributary empire of such magnitude might be some compensation for the loss of India.

It is the misfortune of the French that, while they have colonies and dependencies scattered over most of the world, in comparatively few of them can Europeans pursue their ordinary labors with safety. The French rule extends over considerable portions of the west coast of Africa, to some extent over Madagascar and ports of the Red Sea, over islands in Oceanica and the West Indies, over Guiana and Pondicherry, but in few of these scattered domains can white men live in health and comfort. From the most of them France can only hope for an increased commerce, by establishing herself as the protector or ruler of native races, by building up their trade and industries, and fostering their relations with French markets. Whatever may be the result of such a policy, the question is one of interest and of great practical importance. Those who desire to investigate it will find a very full and, we have no doubt, a very accurate statement of the present condition of the French colonies in M. de Lanessan's book.

JAMES BRECK PERKINS.

Lehrbuch des Deutschen Verwaltungsrechts. Von Dr. KARL FREIHERR VON STENGEL, o. ö. Professor an der Universität Breslau. Stuttgart, Verlag von Ferdinand Enke, 1886.—xvi, 459 pp.

Perhaps in no branch of public law is there so great literary activity in Germany as in administrative law. Besides numerous monographs

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on special portions of the law, there have appeared within the last three years no less than three complete systematic treatises. Georg Meyer made the first attempt at a complete presentation of the administrative law of Germany in his treatises on German public law and on German administrative law, the latter of which (*Lehrbuch des deutschen Verwaltungsrechts*) appeared in two volumes in 1883. In 1884 Dr. Loening of Rostock published his *Deutsches Verwaltungsrecht;* and now Von Stengel, already well known as a legal writer by his *Organisation der preussischen Verwaltung*, has put the results of his latest investigations into systematic form.

Von Stengel's treatise is a great addition to the literature of the subject. Indeed, I know of no book which in equal space conveys so much information. The style is clear — for a German book, very clear — and the facts seem to be accurately presented. The only objection that can be made to the work as a whole is that it is not complete. Von Stengel has adopted the idea of administration which of late has obtained so general a recognition in Germany, and which makes it coincident with the administration of "internal" affairs simply. This conception of administration includes the organization of the government and such subjects as police, public health, public education, the regulation of agrarian relations, commerce and trade, public credit, transportation, *etc.*, but excludes military and financial administration.

The arrangement is evidently borrowed from Professor Gneist's latest work on English administrative law, and is, on the whole, probably the most satisfactory that can be devised. I do not mean to say there is in this book any such slavish imitation as may be found in several of the latest German works on administration; on the contrary, the author has, in some respects, improved upon Gneist's arrangement. There is no such artificial division of every subject into "Normen," "Organe," and "Controlen," as we find in all Gneist's works.

A further innovation upon the usual system of arrangement is to be found in Professor von Stengel's enumeration of the different branches of administration, taking the word in its widest sense, and not as limited to "internal" affairs. To the five usual branches, — foreign relations, finance, justice, military affairs, and internal relations, — the author adds a sixth branch which he terms "general administration." In this he includes such matters as affect the general administration of the country rather than any one of its recognized branches; *e.g.*, the law of elections. It is questionable whether any such division can be justified. Election laws, and the like, in a strictly scientific classification of law, are rather constitutional than administrative in character.

The most interesting chapters in the book are those on the means of action and the procedure of the administration, in which are discussed

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the various acts by which the administration does its work, and on the control of the administration and administrative courts, which is the clearest discussion of this much-treated subject that I have seen.

One of the noticeable characteristics of the book is the continual reference to recent periodical literature, which is extremely rich. On this account, if for no other, the book is indispensable to every student of German administration. It is to be regretted, however, that it has no index; its usefulness as a book of reference is much lessened by this omission.

FRANK J. GOODNOW.

A Table chronologically arranged of the Statutes of the State of New York, amended, repealed, continued, or otherwise modified or affected, covering the laws passed from the session of 1777 to the close of the session of 1886. By CLARENCE F. BIRDSEYE, of the New York Bar. New York, L. K. Strouse & Co., 1887.

The general object of this work is to present only such statutes of the state as have either been affected by later legislation or refer to acts previously passed. It is thus an index to the progress and development of state legislation. In a variety of ways this book is most useful and instructive. One of its most valuable teachings is the instability of our legislation. Take the year 1871 (chosen at random) as a specimen. Nine hundred and fifty laws or chapters were enacted in that year. Of these, five hundred and forty-one chapters either affect prior legislation or are affected by subsequent laws. The year 1886 yields similar and even worse results. Out of six hundred and eighty-one laws four hundred and fourteen are found in Mr. Birdseye's list. Facts like these should cause the people of the state to pause before insisting upon a civil code, which, according to the experience of a hundred years, would be subject to incessant legislative tinkering, leading to ruinous confusion and uncertainty. This work is to be commended from another point of view. It will be found to be indispensable to the legal practitioner in the performance of one of the most difficult branches of his work, — that of the interpretation and construction of statutes, — in enabling him readily to collate various statutes on the same subject.

Such a book as this is, of course, only useful when prepared with accuracy and fine legal discrimination. There is every reason to believe that it will stand the tests which the profession will soon apply to it. It is, as we happen to know, the product of the most patient industry and painstaking attention on the author's part. His abilities and fidelity are a reasonable guaranty that his task is well performed. The materials are conveniently arranged, and the student can in an instant

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refer to any statute that he may have under consideration. We heartily commend this book, not only to lawyers, but to any one interested in the history of legislation.

THEODORE W. DWIGHT.

Revue d'Économie politique. Première année, no. 1. Paris, Larose et Forcel, 1887.—8vo, 108 pp.

The number of scientific reviews devoted to economics is growing apace. During the past year we have had occasion to record the creation of such journals in America, Italy, Denmark, and Roumania. Now France falls into line, with a new review which bids fair to dispute supremacy with the *Journal des Économistes*, leaving only England to give evidence of the renewed activity of late imparted to economic research.

Almost a decade ago political economy was made a regular part of the curriculum of the French law schools throughout the country. Among the professors who filled these new chairs a gradual feeling of discontent with the prevalent spirit and methods of French economics has made itself felt, and has finally culminated in the creation of the *Revue d'Économie politique*, a bimonthy publication. Its editors are Professors Charles Gide of Montpellier, Alfred Jourdan of Aix, Edmond Villey of Caen, and Leon Duguit of Bordeaux, all of whom are favorably known to foreign specialists as the authors of comprehensive treatises on economics. Among the twenty-two principal collaborators we notice such well-known writers as Cossa, De Flaix, Garnier, Laveleye, Simon, and Walras. The first number contains articles by Jourdain, on methods of teaching economics; by Beauregard, on the rise of wages in the nineteenth century; by Fournier de Flaix, on theories of taxation in Australia; an interesting *chronique* or sketch of the development of the science since 1870, by Gide; an account of a late meeting of the Lyons society of political economy; and reviews of new books.

The editors and co-workers of the new review belong to different schools. The programme declares that its columns shall be open to all, that absolute neutrality is to be the key-note of the enterprise. This, they assert, is sufficient to give the publication "une physionomie tout à fait originale." In contradistinction to the French journals already in existence, this review "ne sera l'organe ni d'une personnalité ni d'une école." Practically thus the review may be regarded as a moderate protest against the adherents of the orthodox school who still rally round the *Journal des Économistes;* and this influence is strengthened by the fact that not a single Parisian writer, except Simon, is found among its contributors. The conclusion is re-inforced beyond the peradventure of

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a doubt by the *chronique*, written by one of the editors, who traces the development of the historical school in France since 1870, and maintains that its influence can no longer be overlooked. For a Frenchman the following sentence is indeed noteworthy: "L'influence prépondérante que l'Allemagne a exercée dans le monde depuis 1870, non seulement dans la politique proprement dite, mais dans tous les domaines de l'activité humaine, n'a certainement pas été étrangère aux succès de l'école historique." Thus France also definitely joins the ranks of the malcontents.

E. R. A. S.

PUBLICATIONS RECEIVED.

(Exclusive of those already reviewed.)

Adler, Dr. Georg. Die Grundlagen der Karl Marx'schen Kritik der bestehenden Volkswirthschaft. Tübingen, H. Laupp'sche Buchhandlung, 1887. — 8vo, 294 pp.

Baernreither, Dr. J. M. Die Englischen Arbeiterverbände und ihr Recht. Bd. I. Tübingen, H. Laupp'sche Buchhandlung, 1886. — 8vo, 450 pp.

Barnes, W. E. [Editor.] The Labor Problem. New York, Harper & Bros., 1886. — 16mo, 330 pp.

Bastable, C. F. The Theory of International Trade. Dublin, Hodges, Figgis & Co., 1887. — 12mo, 176 pp.

Behrends, A. J. F. Socialism and Christianity. New York, Baker & Taylor, 1886. — 12mo, 308 pp.

Buckland, Anna. Our National Institutions. London, Macmillan & Co., 1886. — 16mo, 111 pp.

Campbell, E. L. The Science of Law according to the American Theory of Government. Trenton, N. J., 1886. — 12mo, 113 pp.

Campbell, Helen. Prisoners of Poverty. Boston, Roberts Bros., 1887. — 12mo, 257 pp.

Clunet, Édouard. Offenses et actes hostiles commis par des particuliers contre un État étranger. Paris, Marchal et Billard, 1887. — 8vo, 31 pp.

Danger, L., and Marz, C. Der Grundbesitz in der Provinz Hanover. Mit einer Karte. Hanover, Gustav Prior, 1886. — 8vo, 520 pp.

Ford, Worthington C. The American Citizen's Manual. New York, G. P. Putnam's Sons, 1886. — 2 vols. in 1, 12mo, 146, 185 pp.

Guyot, Yves. L'impôt sur le revenu. Paris, Guillaumin et Cie, 1887.

Jay, John. The Fisheries Dispute. 2d ed. New York, Dodd, Mead & Co., 1887. — 8vo, 52 pp.

Juraschek, Fr. von. Geographisch-statistische Tabellen aller Länder der Erde. Leipzig, Otto Hübner, 1886. — 16mo, 48 pp.

Legrand, Arthur. Le credit agricole. Paris, Bureaux de la Revue Britannique, 1886. — 8vo, 36 pp.

Macy, Jesse. Our Government. Boston, Ginn & Co., 1886. — 12mo, 238 pp.

Molinari, G. de. Les lois naturelles de l'économie politique. Paris, Guillaumin et Cie, 1886. — 12mo, 333 pp.

LICENSED TO UNZ.ORG
ELECTRONIC REPRODUCTION PROHIBITED

Munding, Karl. Die Lügen des socialistischen Evangeliums. 2 Aufl. Stuttgart, Levy & Müller, 1886. — 8vo, 92 pp.

Newton, R. Heber. Social Studies. New York, Putnam's Sons, 1887. — 16mo, 355 pp.

Nelson, N. O. Profit Sharing. St. Louis, 1887. 12mo, 40 pp.

Nicholson, J. S. The Silver Question. Occasional Papers issued by the Bimetallic League, No. 1. London, 1886. — 12mo, 47 pp.

Sainctelette, Ch. Accidents de travail. Projet d'une proposition de loi. Bruxelles, Emile Bruyland, 1886. — 8vo, 75 pp.

Sidgwick, Henry. Outlines of the History of Ethics. London, Macmillan & Co., 1886. — 12mo, 276 pp.

Smith, George H. Elements of Right and of the Law. 2d ed. Chicago, Callaghan & Co., 1887. — 12mo, 398 pp.

Soetbeer, Heinrich. Die Stellung der Sozialisten zur Malthus'schen Bevölkerungslehre. Berlin, Puttkammer & Mühlbrecht, 1886.

Spooner, Lysander. A Letter to Grover Cleveland. Boston, Benj. R. Tucker, 1886. — 8vo, 110 pp.

—— A Letter to Scientists. Boston, Cupples & Upham, 1884. — 8vo, 22 pp.

Von Holst, H. The Constitutional Law of the United States of America. Translated by Alfred Bishop Mason. Chicago, Callaghan & Co., 1887. — 8vo, 369 pp.

Walras, Léon. Théorie de la monnaie. Lausanne, 1886. — 8vo, 124 pp.

Wood, Henry. Natural Law in the Business World. Boston, Lee & Shepard; New York, C. T. Dillingham, 1887. — 16mo, 222 pp.

Official Publications.

Belgium. Annuaire statistique de la Belgique. Tome XVI. Bruxelles, 1886. — Large 8vo, ix, 426, xix pp.

—— Chemins de fer. Postes et télégraphes. Marine. Compte rendu des operations pendant l'année 1885. Bruxelles, 1886. — Folio, xiii, 107, 34, 18 pp.

—— Compte rendu de la Caisse générale d'épargne et de retraite. Année 1885. Bruxelles, 1886. — Folio, 39 pp.

—— Tableau général du commerce avec les pays étrangers pendant l'année 1885. Bruxelles, 1886. — Folio, xlv, 252 pp.

Connecticut. Second Annual Report of the Bureau of Labor Statistics. Hartford, 1886. — 8vo, lx, 108 pp.

Illinois. Bureau of Labor Statistics. Statistics of Convict Labor. Springfield, 1886. — 8vo, 142 pp.

United States. Quarterly Report of the Chief of the Bureau of Statistics, Treasury Department, relative to Imports, Exports, Immigration, and Navigation, for the three months ending Dec. 31, 1886. Government Printing Office, 1887.

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